

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

**FORM 20-F**

(Mark One)

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

OR

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended **December 31, 2019**

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

OR

SHELL COMPANY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

Date of event requiring this shell company report

For the transition period from \_\_\_\_\_ to

Commission file number: **001-34153**

**Global Ship Lease, Inc.**

(Exact name of Registrant as specified in its charter)

N/A

(Translation of Registrant's name into English)

**Republic of The Marshall Islands**

(Jurisdiction of incorporation or organization)

**25 Wilton Road, London SW1V 1LW, United Kingdom**

(Address of principal executive offices)

**Ian J. Webber, Chief Executive Officer, 25 Wilton Road, London SW1V 1LW, United Kingdom**

**Tel number: + 44 (0) 20 3998 0063**

**ian.webber@globalshiplease.com**

(Name, Telephone, Email and/or Facsimile Number and Address of Company Contact Person)

Securities registered or to be registered pursuant to Section 12(b) of the Act.

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Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Class A Common Shares, par value of \$0.01 per share	GSL	New York Stock Exchange
Depository Shares, each of which represents a 1/100th interest in a share of 8.75% Series B Cumulative Redeemable Perpetual Preferred Shares, par value \$0.01 per share	GSL-B	New York Stock Exchange
8.75% Series B Cumulative Redeemable Perpetual Preferred Shares*	N/A*	N/A*
8.00% Senior Unsecured Notes due 2024	GSLD	New York Stock Exchange

\* Not for trading, but only in connection with the registration of the Depository Shares representing 1/100th interest in such shares of 8.75% Series B Cumulative Redeemable Perpetual Preferred Shares, pursuant to the requirements of the Securities and Exchange Commission.

Securities registered or to be registered pursuant to Section 12(g) of the Act: **None**

Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act: **None**

Indicate the number of outstanding shares of each of the issuer's classes of capital or common stock as of the close of the period covered by the annual report.

17,556,738 Class A common shares, par value of \$0.01 per share  
14,428 Series B Cumulative Redeemable Perpetual Preferred Shares, par value of \$0.01 per share  
250,000 Series C Perpetual Preferred Shares, par value of \$0.01 per share

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

If this report is an annual or transition report, indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934. Yes  No

Note – Checking the box above will not relieve any registrant required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 from their obligations under those Sections.

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or an emerging growth company. See the definitions of “large accelerated filer,” “accelerated filer,” and “emerging growth company” in Rule 12b-2 of the Exchange Act.

Large accelerated filer	<input type="radio"/>	Accelerated filer	<input type="radio"/>
Non-accelerated filer	<input checked="" type="radio"/>	Emerging growth company	<input type="radio"/>

If an emerging growth company that prepares its financial statements in accordance with U.S. GAAP, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards<sup>†</sup> provided pursuant to Section 13(a) of the Exchange Act.

<sup>†</sup> The term “new or revised financial accounting standard” refers to any update issued by the Financial Accounting Standards Board to its Accounting Standards Codification after April 5, 2012.

Indicate by check mark which basis of accounting the registrant has used to prepare the financial statements included in this filing:

U.S. GAAP <input checked="" type="radio"/>	International Financial Reporting Standards as Issued by the International Accounting Standards Board <input type="radio"/>	Other <input type="radio"/>
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If “Other” has been checked in response to the previous question, indicate by check mark which financial statement item the registrant has elected to follow.

Item 17  Item 18

If this is an annual report, indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).  
Yes  No

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## CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Annual Report contains forward-looking statements. Forward-looking statements provide our current expectations or forecasts of future events. Forward-looking statements include statements about our expectations, beliefs, plans, objectives, intentions, assumptions and other statements that are not historical facts. Words or phrases such as “anticipate,” “believe,” “continue,” “estimate,” “expect,” “intend,” “may,” “ongoing,” “plan,” “potential,” “predict,” “project,” “will” or similar words or phrases, or the negatives of those words or phrases, may identify forward-looking statements, but the absence of these words does not necessarily mean that a statement is not forward-looking. Examples of forward-looking statements in this Annual Report include, but are not limited to, statements regarding our disclosure concerning our operations, cash flows, financial position, dividend policy, the anticipated benefits of our strategic transaction with Poseidon Containers, and the likelihood of success in acquiring additional vessels to expand our business.

Forward-looking statements appear in a number of places in this Annual Report including, without limitation, in the sections entitled “Business Overview,” “Management’s Discussion and Analysis of Financial Conditions and Operations,” and “Dividend Policy.”

Forward-looking statements are subject to known and unknown risks and uncertainties and are based on potentially inaccurate assumptions that could cause actual results to differ materially from those expected or implied by the forward-looking statements. Our actual results could differ materially from those anticipated in forward-looking statements for many reasons, including the factors described in “Risk Factors” in this Annual Report. The risks described under “Risk Factors” are not exhaustive. Other sections of this Annual Report describe additional factors that could adversely affect our results of operations, financial condition, liquidity and the development of the industries in which we operate. New risks can emerge from time to time, and it is not possible for us to predict all such risks, nor can we assess the impact of all such risks on our business or the extent to which any risks, or combination of risks and other factors, may cause actual results to differ materially from those contained in any forward-looking statements. Accordingly, you should not unduly rely on these forward-looking statements, which speak only as of the date of this Annual Report. We undertake no obligation to publicly update or revise any forward-looking statement to reflect circumstances or events after the date of this Annual Report or to reflect the occurrence of unanticipated events. You should, however, review the factors and risks we describe in the reports we will file from time to time with the Securities and Exchange Commission, or “SEC,” after the date of this Annual Report.

## PART I

Unless the context otherwise requires, references to the “Company,” “we,” “us,” “our” or “Global Ship Lease” refer to Global Ship Lease, Inc.; “CMA CGM” refers to CMA CGM S.A., currently our principal charterer; “Poseidon Containers” refers to Poseidon Containers Holdings LLC and K&T Marine LLC, collectively, Technomar Shipping Inc (“Technomar”) refers to our ship technical manager and ConChart Commercial Inc (“Conchart”) refers to one of our commercial ship managers. For the definition of certain terms used in this Annual Report, please see “Glossary of Shipping Terms” at the end of this Annual Report. Unless otherwise indicated, all references to “\$” and “dollars” in this Annual Report are in U.S. dollars. We use the term “TEU”, meaning twenty-foot equivalent unit, the international standard measure of container size, in describing volumes in world container trade and other measures, including the capacity of our containerhips, which we also refer to as vessels or ships. Unless otherwise indicated, we calculate the average age of our vessels on a weighted average basis, based on TEU capacity.

On November 15, 2018, we completed a strategic combination with Poseidon Containers, acquiring 20 containerhips, one of which, the Argos, was contracted to be sold, which sale was completed in December 2018, which we refer to herein as the “Poseidon Transaction”. References herein to the “GSL Fleet” are to the 19 ships that were owned by us prior to the consummation of the Poseidon Transaction and references to the “Poseidon Fleet” are to the 19 vessels that were acquired by us upon consummation of the Poseidon Transaction, excluding the Argos, which was subsequently sold.

All share and per share amounts disclosed in this Annual Report give retroactive effect, for all periods presented, to the one-for-eight reverse stock split of our Class A common shares effected on March 25, 2019.

### **Item 1. Identity of Directors, Senior Management and Advisers**

Not applicable.

### **Item 2. Offer Statistics and Expected Timetable**

Not applicable.

### **Item 3. Key Information**

#### **A. Selected Financial Data**

The following table sets forth our selected consolidated financial and other data as of and for the years ended December 31, 2019, 2018, 2017, 2016 and 2015, which is derived from our audited consolidated financial statements which have been prepared in accordance with United States generally accepted accounting principles (“U.S. GAAP”). Our audited consolidated statements of operations and statements of cash flows for the years ended December 31, 2019, 2018 and 2017 and our audited consolidated balance sheets as of December 31, 2019 and 2018, together with the notes thereto, are included in this Annual Report. Our audited consolidated statements of income and cash flows for the years ended December 31, 2016 and 2015 and our audited consolidated balance sheets as of December 31, 2017, 2016 and 2015, and the notes thereto, are not included herein.

You should read the information set forth below in conjunction with “Item 5. Operating and Financial Review and Prospects—A. Operating Results—Management’s Discussion and Analysis of Financial Condition and Results of Operations” and our audited consolidated financial statements and notes thereto.

	2019	2018 <sup>(1)</sup>	2017	2016	2015
	(Expressed in millions of U.S. dollars, except for per share data)				
<b>Statement of Operations</b>					
<b>Operating revenues:</b>					
Time charter revenue	\$ 261.1	\$ 157.1	\$ 159.3	\$ 166.8	\$ 165.3
<b>Operating expenses:</b>					
Vessel operating expenses	(87.8)	(49.3)	(42.7)	(45.4)	(48.9)
Time charter and voyage expenses	(9.0)	(1.6)	(1.0)	(0.7)	(1.6)
Depreciation and amortization	(43.9)	(35.5)	(38.0)	(42.8)	(44.9)
General and administrative expenses	(8.8)	(9.2)	(5.4)	(6.2)	(6.5)
Impairment of vessels	—	(71.8)	(87.6)	(92.4)	(44.7)
<b>Total operating expenses</b>	<b>(149.5)</b>	<b>(167.4)</b>	<b>(174.7)</b>	<b>(187.5)</b>	<b>(146.6)</b>
<b>Operating Income / (Loss)</b>	<b>111.6</b>	<b>(10.3)</b>	<b>(15.4)</b>	<b>(20.7)</b>	<b>18.7</b>
<b>Non-operating income (expenses)</b>					
Interest income	1.8	1.4	0.5	0.2	0.1
Interest and other financial expenses	(75.0)	(48.7)	(59.4)	(44.8)	(48.2)
Other income, net	1.5	0.3	0.1	0.2	0.6
<b>Income / (Loss) before income taxes</b>	<b>39.9</b>	<b>(57.3)</b>	<b>(74.2)</b>	<b>(65.1)</b>	<b>(28.8)</b>
Income taxes	(0.0)	0.0	(0.0)	(0.0)	0.0
Net Income / (Loss)	39.9	(57.3)	(74.2)	(65.1)	(28.8)
Earnings allocated to Series B Preferred Shares	(3.1)	(3.1)	(3.1)	(3.1)	(3.1)
<b>Net Income / (Loss) available to common shareholders<sup>(2)</sup></b>	<b>36.8</b>	<b>(60.4)</b>	<b>(77.3)</b>	<b>(68.2)</b>	<b>(31.9)</b>
<b>Net Income / (Loss) per Class A common share in \$</b>					
Basic and diluted	1.48	(7.42)	(12.89)	(11.39)	(5.36)
<b>Weighted average number of Class A common shares outstanding</b>					
Basic in millions	11.9	6.5	6.0	6.0	6.0
Diluted in millions	11.9	6.5	6.0	6.0	6.0
<b>Net income per Class B common share in \$</b>					
Basic and diluted	Nil	Nil	Nil	Nil	Nil
<b>Weighted average number of Class B common shares outstanding</b>					
Basic and diluted in millions	Nil	0.9	0.9	0.9	0.9
Dividend per Class A common share in \$	—	—	—	—	0.02
<b>Statement of cash flow</b>					
Net cash provided by Operating Activities	93.3	47.7	66.9	71.6	62.3
Net cash (used in)/provided by Investing Activities	(99.9)	24.3	(4.9)	(6.9)	(101.2)
Net cash provided by/(used in) Financing Activities	64.1	(55.2)	(42.9)	(64.1)	59.2
<b>Balance sheet data (at year end)</b>					
Total current assets	161.9	99.0	77.4	57.1	57.6
Total vessels in operation	1,155.6	1,112.8	586.5	707.3	838.4
Total assets	1,351.8	1,233.5	675.9	777.2	904.9
Debt (current and non-current portion), net	896.9	877.2	398.5	419.9	478.1
Class B and C Preferred Shares	—	—	—	—	—
Class A and B common shares	0.2	0.1	0.1	0.1	0.1
Stockholders' equity	406.4	316.4	251.6	328.9	395.8
<b>Other data</b>					
Number of vessels in operation at year end	43	38	18	18	18
Ownership days	14,326	7,675	6,570	6,588	6,893
Utilization	94.4%	98.7%	98.4%	98.4%	99.6%

(1) On November 15, 2018, we completed the Poseidon Transaction. The consideration given for the acquisition of the net assets was 3,005,603 Class A common shares and 250,000 Series C perpetual convertible preferred shares of par value \$0.01 (the "Series C Preferred Shares"). Each Series C preferred share carries 38.75 votes and they are convertible in certain circumstances to a total of approximately 13.0 million Class A common shares.

- (2) On January 2, 2019, as a consequence of the completion of the Poseidon Transaction, all of our issued and outstanding Class B common shares converted one-for-one into Class A common shares. On March 25, 2019, we effected a one-for-eight reverse stock split of our Class A common shares, which our shareholders authorized at our special meeting of shareholders held on March 20, 2019. There was no change to the par value of our Class A common shares in connection with the reverse stock split. All share and per share amounts disclosed in this Annual Report give effect to the reverse stock split retroactively, for all periods presented, which resulted in the number of issued and outstanding Class A common shares reducing from 79,543,921 to 9,942,950.

#### **B. Capitalization and Indebtedness**

Not applicable.

#### **C. Reasons for the Offer and Use of Proceeds**

Not applicable.

#### **D. Risk Factors**

### **Risks Relating to Our Business**

*We are dependent on our charterers, particularly CMA CGM, and other counterparties fulfilling their obligations under agreements with us, and their inability or unwillingness to honor these obligations could significantly reduce our revenues and cash flow.*

Payments to us by our charterers under time charters are, and will continue to be, our sole source of operating cash flow. As at December 31, 2019, 17 of our 43 vessels were chartered to CMA CGM. CMA CGM's payments to us under these charters are an important source of operating revenue. We are consequently highly dependent on the performance by CMA CGM of its obligations under these charters. The container shipping industry is cyclical and, whilst financial performance improved from time to time, has been suffering an extended cyclical downturn since mid-2008, with freight rates, charter rates, asset values, and liner operator earnings under pressure due to oversupply of container ship capacity. Industry conditions improved through 2017 and into the first half of 2018, with weakness in short term market charter rates being seen in the second half of 2018. Full year growth in container volume in 2019 is estimated at 2.0%, despite negative sentiment resulting from trade tensions between the U.S. and China. More recently, the coronavirus (COVID-19) pandemic is expected to have a negative effect on global container trade which is likely, in turn, to impact our charterers' operating cash flows. This, together with the global disruption to administrative efficiency that is likely to be caused by companies quarantining employees and shifting to working from home on an unprecedented scale, may result in delays in us receiving charter hire payments. If we lose a time charter because the charterer is unable to pay us or for any other reason, we may be unable to re-deploy the related vessel on similar terms or at all. Also, we will not receive any revenues from such a vessel while it is un-chartered, but we will be required to pay expenses necessary to maintain and insure the vessel and service any indebtedness on it.

Whilst there were no delays in receiving charterhire payments in 2018 or 2019, we have previously experienced, from time to time, delays in receiving charterhire payments from CMA CGM, which under the charter contracts are due to be paid two weeks in advance. As of December 31, 2019, no charterhire payments were outstanding.

If CMA CGM, or any other of our charterers, ceases doing business or fails to perform its obligations under our charters, our business, financial position and results of operations would be materially adversely affected by reduced operating cashflow. If vessels were redelivered to us prior to the scheduled expiration of their respective charters, it is probable that, even if we were able to find replacement charters, such replacement charters would be at significantly lower daily rates and for shorter durations. If such events occur, these events may give rise to uncertainty about our ability to continue as a going concern. Please also see "—We may be unable to recharter our vessels at profitable rates, if at all, upon their time charter expiry" below.



***We may not realize all of the anticipated benefits of our recent strategic transaction with Poseidon Containers.***

On November 15, 2018, we completed the Poseidon Transaction, a strategic combination with Poseidon Containers whereby we acquired Poseidon Containers, including its fleet of 20 containerships, one of which was contracted to be sold, the sale of which was completed in December 2018. On the closing of the Poseidon Transaction, we issued 3,005,603 Class A common shares and 250,000 Series C Preferred Shares, which are convertible into 12,955,187 Class A common shares upon the occurrence of certain events, to the unitholders of Poseidon Containers and assumed the debt of Poseidon Containers, which amounted to \$509.7 million as of November 15, 2018.

There is a risk that some or all of the expected benefits of the Poseidon Transaction may fail to materialize, or may not occur within the time periods anticipated. The realization of such benefits may be affected by a number of factors, many of which are beyond our control, including but not limited to the strength or weakness of the economy and competitive factors in the areas where we do business, the effects of competition in the markets in which we operate, and the impact of changes in the laws and regulations regulating the container shipping industry. The challenge of coordinating previously separate businesses makes evaluating our business and future financial prospects following the Poseidon Transaction difficult. Our ability to realize anticipated benefits and cost savings will depend, in part, on our ability to successfully integrate the operations of both us and Poseidon Containers in a manner that results in various benefits, including, among other things, an expanded market reach and operating efficiencies, and that does not materially disrupt existing relationships nor result in decreased revenues or dividends. The past financial performance of each of Global Ship Lease and Poseidon Containers may not be indicative of their future financial performance. Realization of the anticipated benefits of the Poseidon Transaction will depend, in part, on our ability to successfully integrate our business. We have devoted, and expect to continue to devote, significant management attention and resources to integrating business practices and support functions. The diversion of management's attention and any delays or difficulties encountered relating to the Poseidon Transaction and the coordination of the two companies' operations could have an adverse effect on our business, financial results, financial condition or our share price. The consummation of the Poseidon Transaction and the integration of Poseidon Containers with our business may also result in additional and unforeseen expenses. Failure to realize all of the anticipated benefits of the Poseidon Transaction may impact our business, results of operations and financial condition.

***Significant demands have been, and will continue to be, placed on us as a result of the Poseidon Transaction.***

As a result of the completion of the Poseidon Transaction, significant demands have been, and will continue to be, placed on our managerial, operational and financial personnel and systems. We cannot assure you that our systems, procedures and controls will be adequate to support the expansion of operations resulting from the Poseidon Transaction. Our future operating results will be affected by the ability of our officers and key employees to manage changing business conditions and to implement and expand our operational and financial controls and reporting systems as a result of the Poseidon Transaction.

***We are dependent on third parties, some of which are related parties, to manage our ships and substantial fees will be payable to our ship managers regardless of our profitability.***

All of our vessels are technically managed by Technomar, a company of which our Executive Chairman is the majority beneficial owner, under ship management contracts whereby, for an annual management fee, the manager provides all day-to-day ship technical management, including crewing, purchasing stores, lubricating oils and spare parts, paying wages, pensions and insurance for the crew, and organizing other vessel operating necessities, including the arrangement and management of drydocking.

Additionally, as of the date of this report, all of our vessels are directly or indirectly commercially managed by Conchart, a company of which our Executive Chairman is the sole beneficial owner. The services provided by Conchart, as our commercial manager, include chartering, sale and purchase and post-fixture administration.

The fees and expenses payable pursuant to our technical and commercial ship management agreements will be payable without regard to our business, results of operation and financial condition and we have limited rights to terminate our management agreements. The payment of fees to our managers could adversely affect our results of operations and ability to pay dividends.

***Our third-party ship managers are privately-held companies and there is little or no publicly available information about them.***

The ability of Technomar and Conchart to render technical and commercial ship management services will depend in part on their own financial strength. Circumstances beyond our control could impair our third-party ship managers' financial strength, and because each is a privately held company, information about the financial strength of our third-party ship managers is not available. As a result, we and our shareholders might have little or no advance warning of financial or other problems affecting our third-party ship managers even though their financial or other problems could have a material adverse effect on us.

***Technomar, Conchart and CMA CGM may have conflicts of interest with us which may make them favor their own interests to our detriment.***

Our Executive Chairman is the Founder, Managing Director, and majority beneficial owner of Technomar and the sole beneficial owner of ConChart. As of the date of this report, CMA CGM, holds approximately 11.2% of our voting power and has nominated two members of our Board of Directors. Accordingly, CMA CGM, our principal charterer, and affiliates of Technomar and Conchart, our third-party ship managers, have the power to exert considerable influence over our actions. These relationships could create conflicts of interest between us and our third-party ship managers and principal charterer. Under our amended and restated bylaws, in order for the approval of contracts or transactions involving a related party not to be voidable (1) any interested director's relationship or interest as to the contract or transaction must be disclosed to the board of directors, and such contract or transaction must be authorized by a majority of the disinterested directors (or, in certain cases, all of the disinterested directors) or (2) the contract or transaction must be specifically approved in good faith by vote of the shareholders. Furthermore, our corporate governance guidelines require a director with a personal interest in a matter being approved by the board of directors to disclose the interest, to recuse himself or herself from participation in the discussion and to not vote on the matter.

Such conflicts of interest may arise in connection with the chartering, purchase, sale and operations of the vessels in our fleet versus vessels managed or owned by other companies affiliated with our third-party ship managers or principal charterer. As a result of these conflicts, our third-party ship managers or our principal charterer may favor their own or their affiliates' interests over our interests. These conflicts may have unfavorable consequences for us. Although Technomar and Conchart have entered into a non-competition agreement with us, conflicts of interest may arise between us and our third-party ship managers and principal charterer, and such conflicts may not be resolved in our favor and could have an adverse effect on our results of operations.

***Our financial reporting is partly dependent on information provided by our third-party ship managers and on accounting and financial reporting services provided by Technomar.***

Our ship managers are obliged to provide us with requisite financial information on a timely basis so that we can meet our own reporting obligations under U.S. securities laws. Furthermore, the accounting and financial reporting for Poseidon Containers is provided by Technomar, under an administrative support section of the ship management contracts. All accounting and financial reporting for the legacy Global Ship Lease entities transitioned to Technomar during the year ended December 31, 2019. Technomar is a privately held company with financial reporting arrangements different from ours. If it is delayed in providing us with key financial information, or it otherwise fails to meet its obligations under the administrative support section of the ship management agreements, we could fail to meet our financial reporting deadlines, which could lead to regulatory sanctions being imposed on us and cause us to default on reporting covenants under our financing agreements. Any such results may have a material adverse effect on our results of operation, financial condition and reputation.

***Certain terms in our agreements with CMA CGM may be the result of negotiations that were not conducted at arms-length and may not reflect market standard terms. Accordingly, they may include terms that may not be obtained from future negotiations with unaffiliated third parties.***

Our charter agreements with CMA CGM and certain other contractual agreements were entered into when we were a wholly-owned subsidiary of CMA CGM in the context of a proposed public offering of our Class A common shares in 2007, and subsequently the 2008 merger of Marathon Acquisition Corp. (“Marathon”) and Global Ship Lease, with and into GSL Holdings, Inc., Marathon’s newly-formed wholly-owned Marshall Islands subsidiary, with GSL Holdings, Inc. (now renamed Global Ship Lease, Inc.) continuing as the surviving company incorporated in the Republic of the Marshall Islands (collectively, the “Marathon Merger”), and other related transactions. We have subsequently agreed to amendments of and extensions to a number of the charters we have with CMA CGM. Our agreements with CMA CGM may include terms that could not have been obtained and may not be attainable in the future from arms-length negotiations with unaffiliated third parties for similar services and assets.

***Our growth depends on continued growth in the demand for containerships, our ability to purchase additional vessels and obtain new charters. We will require additional financing to be able to grow and will face substantial competition.***

One of our objectives is to grow by acquiring additional vessels and chartering them out to container shipping companies. The opportunity to acquire additional containerships will in part depend on the state of and prospects for container shipping. The container shipping industry is both cyclical and volatile in terms of supply demand balance, freight rates and charter rates and overall profitability. By and large, the industry has been under pressure since 2008, with an excess of supply of containership capacity and mediocre demand growth. The factors affecting the supply and demand for containerships, and the nature, timing and degree of changes in industry conditions are unpredictable.

Acquisition of vessels will be challenging as, among other things, we may need to obtain additional financing in order to complete vessel purchases. Due to the continuing effects of the economic downturn and the severe cyclical downturn in the container shipping industry, financing for investment in containerships, whether newbuildings or existing vessels, is severely limited. Further, the cost of available financing has increased significantly. In addition, in recent years, the number of lenders for shipping companies has decreased and lenders have generally lowered their loan-to-value advance ratios, shortened loan terms and accelerated repayment schedules. The actual or perceived credit quality of our charterers and proposed charterers, and any defaults by them, may materially affect our ability to obtain the additional capital resources that we will require to purchase additional vessels or may significantly increase our costs of obtaining such capital. These factors may hinder our ability to access financing and we may be unable to obtain adequate funding for growth.

The process of obtaining further vessels and new charters is highly competitive and depends on a variety of factors relating to the vessel owner, including:

- competitiveness of overall price;
- availability of committed financing;
- containership leasing experience and quality of ship operations (including cost effectiveness);
- shipping industry relationships and reputation for reliability, customer service and safety;
- quality and experience of seafaring crew;
- ability to finance containerships at competitive rates and financial stability generally;
- relationships with shipyards and the ability to get suitable berths for newbuildings; and
- construction management experience, including the ability to obtain on-time delivery of new vessels according to customer specifications.

We will face substantial competition in expanding our business from a number of experienced companies. Many of these competitors may have greater financial resources and a lower cost of capital than us, may operate larger fleets, may have been established for longer and may be able to offer better charter rates. During any industry downturn there are an increased number of vessels available for charter, including many from owners with strong reputation and experience. Excess supply of vessels in the container shipping market results in greater price competition for charters. As a result of these factors, we may be unable to purchase additional containerships, expand our relationships with our existing charterers or obtain new charters on a profitable basis, if at all, which would have a material adverse effect on our business, results of operations and financial condition.

***Certain shareholders may have the power to exert significant influence over us, and their interests could conflict with the interests of our other shareholders.***

According to information contained in public filings, KEP VI (Newco Marine) Ltd. and KIA VIII (Newco Marine) Ltd., both affiliates of Kelso & Company, a U.S. private equity firm, hereafter referred to as Kelso, controls approximately 36.1% of the vote on any matter submitted to the vote of our common shareholders, through its ownership of Series C Preferred Shares and by virtue of a voting agreement with certain other of our shareholders. In September 2019, we entered into a letter agreement with Kelso whereby Kelso agreed to convert all of its outstanding Series C Preferred Shares into Class A common shares upon the repayment in full of our 9.875% First Priority Senior Secured Notes due 2022 (the “2022 Notes”). In addition, a Managing Director of Kelso is a member of our Board of Directors. As a result, Kelso has the power to exert considerable influence over our actions and the outcome of matters on which our shareholders are entitled to vote, including increasing or decreasing our authorized share capital, the election of directors, declaration of dividends, the appointment of management, and other policy decisions. In addition, according to public filings, CMA CGM, George Giouroukos (our Executive Chairman) through Shipping Participations Inc. and Michael S. Gross (our former Chairman and a current director) hold and/or control approximately 11.2%, 5.4% and 4.9%, respectively of our voting power, respectively. Conflicts of interest may also arise between us and these significant shareholders or their affiliates, which may result in transactions on terms not determined by market forces. Any such conflicts of interest could adversely affect our business, financial condition and results of operations, and the trading price of our common shares. Moreover, the concentration of ownership may delay, deter or prevent acts that may be favored by or favorable to our other shareholders or deprive shareholders of an opportunity to receive a premium for their shares as part of a sale of our business. Similarly, this concentration of share ownership may adversely affect the trading price of our shares because investors may perceive disadvantages in owning shares in a company with concentrated ownership.

***Due to our lack of diversification, adverse developments in our containership transportation business could harm our business, results of operations and financial condition.***

Nearly all of our cash flow is generated from our chartering of containerships. Due to our lack of diversification, an adverse development in the containership industry may harm our business, results of operations and financial condition more significantly than if we maintained more diverse assets or lines of business.

***We may be unable to recharter our vessels at profitable rates, if at all, upon their time charter expiry.***

According to Maritime Strategies International Ltd. (“MSI”), as of December 31, 2019, the overall orderbook-to-fleet ratio represented approximately 10.9% of the total worldwide containership fleet capacity as of that date. Notwithstanding scrapping, the size of the orderbook will likely result in an increase in the size of the world containership fleet over the next few years. As of that date, approximately 240 containerships were idle, with an aggregate capacity of around 1.3 million TEUs, or 5.8% of the total cellular fleet. Potentially, an over-supply of containership capacity, combined with a lack of growth in the demand for containerships, may result in downward pressure on charter rates. As at December 31, 2019, but adjusted to include all ships delivered and charters agreed through March 31, 2020, the charters for nine of our 45 containerships either have expired or could expire before the end of the first half of 2020 and a further 12 vessels have charters which may expire during the second half of 2020. We cannot be assured that we will be able to obtain new time charters for our vessels on expiry of existing charters or that if we do, the new rates will be favorable. If we are unable to obtain new time charters for our containerships at favorable rates or are unable to secure new charters promptly, or at all, the vessels would be idle. We would continue to incur certain operating costs but earn no revenue, which would have a material adverse effect on our business, financings, results of operations and financial condition. Please also see “—We are dependent on our charterers, particularly CMA CGM, and other counterparties fulfilling their obligations under agreements with us, and their inability or unwillingness to honor these obligations could significantly reduce our revenues and cash flow” above.

***Our substantial indebtedness could adversely affect our ability to raise additional capital to fund our operations and limit our ability to react to changes in the economy or our industry.***

We are highly leveraged. As of December 31, 2019, we had \$912.8 million of outstanding indebtedness, including \$322.7 million of secured indebtedness outstanding under our 2022 Notes (together with our 8.00% Senior Unsecured Notes due 2024, the “Notes”).

Our high degree of leverage could have important consequences, including:

- increasing our vulnerability to adverse economic, industry or competitive developments;
- requiring a substantial portion of our cash flows from operations to be dedicated to the payment of interest on our indebtedness, amortization payments for our 2022 Notes and our credit facilities, and, under certain circumstances, principal payments through a cash sweep mechanism in certain of our credit facilities, therefore reducing our ability to use our cash flows to fund operations, capital expenditure and future business opportunities;
- making it more difficult for us to satisfy our obligations with respect to our indebtedness, including the Notes and our credit facilities, and any failure to comply with the obligations of any of our debt instruments, including restrictive covenants and borrowing conditions, could result in an event of default under the indentures governing the Notes and the agreements governing such other indebtedness;
- restricting us from making strategic acquisitions or causing us to make non-strategic divestitures;
- limiting our ability to obtain additional financing for working capital, capital expenditures, debt service requirements, acquisitions and general corporate or other purposes; and
- limiting our flexibility in planning for, or reacting to, changes in our business or market conditions and placing us at a competitive disadvantage compared to our competitors who are less highly leveraged and who, therefore, may be able to take advantage of opportunities that our leverage may prevent us from exploiting.

***Despite our indebtedness levels, we may be able to incur substantially more indebtedness. This could further exacerbate the risks associated with our substantial indebtedness.***

We may be able to incur substantial additional indebtedness in the future, including through our at-the-market offering of additional 8.00% Senior Unsecured Notes due 2024. Although the indenture governing the 2022 Notes and certain of our facility agreements contain restrictions on the incurrence of additional indebtedness, these restrictions are subject to a number of significant qualifications and exceptions, and under certain circumstances, the amount of indebtedness that could be incurred in compliance with these restrictions could be substantial. In addition, the indenture governing the 2022 Notes and our other facility agreements will not prevent us from incurring obligations that do not constitute indebtedness thereunder. Our covenants also permit us to incur substantial non-recourse indebtedness in subsidiaries that do not guarantee our obligations under our 2022 Notes. If we incur substantially more indebtedness, the risks associated with our indebtedness as described above could be exacerbated.

***Our debt agreements contain restrictions that limit our flexibility in operating our business.***

Our debt agreements contain various covenants that limit our ability to engage in specified types of transactions. These covenants limit our ability and the ability of our restricted subsidiaries to, among other things:

- incur additional indebtedness or issue certain preferred stock;
- make any substantial change to the nature of our business;
- pay dividends on or repay or distribute any dividend or share premium reserve;
- redeem or repurchase capital stock or make other restricted payments and investments;
- create or impair certain securities interests, including liens;
- transfer or sell certain assets;
- enter into certain transactions with affiliates;
- acquire a company, shares or securities or a business or undertaking;
- enter into any amalgamation, demerger, merger, consolidation or corporate reconstruction, or sell all or substantially all of our properties and assets;
- create or designate unrestricted subsidiaries; and
- change the flag, class or technical or commercial management of the vessel mortgaged under such facility or terminate or materially amend the management agreement relating to such vessel.

In addition, certain of our debt agreements require us to satisfy certain financial covenants, including a minimum liquidity covenant, minimum net worth covenant, a debt service coverage ratio test, loan to value covenant and value adjusted leverage ratio tests. Our ability to meet those financial covenants and tests will depend on our ongoing financial and operating performance, which, in turn, will be subject to economic conditions and to financial, market, and competitive factors, many of which are beyond our control.

Due to restrictions in our debt agreements, we may need to seek consent from our noteholders and other lenders in order to engage in some corporate and commercial actions that we believe would be in the best interest of our business, and a denial of consent may make it difficult for us to successfully execute our business strategy or effectively compete with companies that are not similarly restricted. For example, our debt agreements restrict our entry into certain transactions or the termination or amendment of our third-party ship management agreements and require that George Giouroukos remain our Executive Chairman. Our lenders' and/or noteholders' interests may be different from ours, and we cannot guarantee that we will be able to obtain their permission when needed. This may prevent us from taking actions that are in our or our shareholders' best interest. Any future agreements governing our indebtedness may include similar or more restrictive restrictions.

A breach of any of the covenants could result in a default under one or more of these agreements, including as a result of cross default provisions, and may permit the lenders to cease making loans to us. Upon the occurrence of an event of default under our credit facilities, the lenders could elect to declare all amounts outstanding under the loan to be immediately due and payable. Such actions by the lenders could cause cross defaults under our other credit facilities and the indentures governing our Notes.

Substantially all of the assets currently owned by us serve as security under our secured debt agreements. If our operating performance declines, we may be required to obtain waivers from the holders of our 2022 Notes and the lenders under our credit facilities to avoid default thereunder. If we are not able to obtain a waiver from the holders of our 2022 Notes and the lenders under our credit facilities, the lenders could exercise their rights upon default and we could be forced into bankruptcy or liquidation.

***The vessels' mortgagor or other maritime claimants could arrest our vessels, which could interrupt the charterer's or our cash flow.***

If we default under our 2022 Notes, or any other credit facility, holders of our 2022 Notes and lenders under our other credit facilities who hold mortgages on our vessels could arrest some or all of our vessels and cause them to be sold. We would not receive any proceeds of such sale unless and until all amounts outstanding under such indebtedness had been repaid in full. Crew members, suppliers of goods and services to a vessel, shippers of cargo and other parties may be entitled to a maritime lien against that vessel for unsatisfied debts, claims or damages. In many jurisdictions, a maritime lien holder may enforce its lien by arresting a vessel through foreclosure proceedings. The arrest or attachment of one or more of our vessels, for valid or invalid reasons, could interrupt the charterer's or our cash flow and require the charterer or us or our insurance to pay a significant amount to have the arrest lifted. In addition, in some jurisdictions, such as South Africa, under the "sister ship" theory of liability, a claimant may arrest both the vessel that is subject to the claimant's maritime lien and any "associated" vessel, which is any vessel owned or controlled by the same owner. Claimants could try to assert "sister ship" liability against one vessel in our fleet for claims relating to another vessel in our fleet. In any event, any lien imposed may adversely affect our results of operations by delaying the revenue gained from ships.

***Vessel values may fluctuate, which may adversely affect our financial condition, result in the incurrence of a loss upon disposal of a vessel or increase the cost of acquiring additional vessels.***

Vessel values may fluctuate due to a number of different factors, including:

- general economic and market conditions affecting the shipping industry;
- the types, sizes and demand for available vessels;
- the availability of other modes of transportation;
- increases in the supply of vessel capacity;
- the cost of newbuildings;
- governmental or other regulations; and
- the need to upgrade second hand and previously owned vessels as a result of changes in regulations, charterer requirements, technological advances in vessel design or equipment, or otherwise.

In addition, as vessels grow older, they generally decline in value. If a charter terminates, we may be unable to re-deploy the vessel at attractive rates, or at all and, rather than continue to incur costs to maintain and finance the vessel, may seek to dispose of it. Our inability to dispose of the containership at a reasonable price, or at all, could result in a loss on its sale and harm our business, results of operations and financial condition. Additionally, under most of our time charter agreements with CMA CGM, the charterer has a right of first refusal should we decide to sell the vessel during or at the end of the charter period. If they do not exercise this right, we are entitled to sell the vessel, subject to their prior approval, which cannot be unreasonably withheld. We may be forced to sell our vessels for a lesser amount because of these constraints. Moreover, if the book value of a vessel is impaired due to unfavorable market conditions, we may incur a loss that could adversely affect our operating results.

Conversely, if vessel values are elevated at a time when we wish to acquire additional vessels, the cost of acquisition may increase and this could adversely affect our business, results of operations, cash flow and financial condition.

In addition, if we determine at any time that a vessel's value has been impaired, we may need to recognize impairment charge, which could be significant, that would reduce our earnings and net assets. We review our containership assets for impairment whenever events or changes in circumstances indicate that the carrying amount of the assets may not be recoverable, which occurs when the assets' carrying value is greater than the undiscounted future cash flows the asset is expected to generate over its remaining useful life. In our experience, certain assumptions relating to our estimates of future cash flows are more predictable by their nature, including, estimated revenue under existing contract terms and remaining vessel life. Certain assumptions relating to our estimates of future cash flows require more judgement and are inherently less predictable, such as future charter rates beyond the firm period of existing contracts, the amount of time a vessel is off-charter, ongoing operating costs and vessel residual values, due to factors such as the volatility in vessel charter rates and vessel values. We believe that the assumptions used to estimate future cash flows of our vessels are reasonable at the time they are made. We can provide no assurances, however, as to whether our estimates of future cash flows, particularly future vessel charter revenues or vessel values, will be accurate. Vessels that currently are not considered impaired may become impaired over time if the future estimated undiscounted cash flows decline at a rate that is faster than the depreciation of our vessels. Future fluctuations in charter rates and vessel values may trigger a possible impairment of our vessels as described in "Item 5. Operating and Financial Review and Prospects— A. Results of Operations—Management's Discussion and Analysis of Financial Condition and Results of Operations—Critical Accounting Policies and Estimates."

Declining containership values could affect our ability to raise cash by limiting our ability to refinance vessels or use unencumbered vessels as collateral for new loans or result in prepayments under certain of our credit facilities. This could harm our business, results of operations, financial condition or ability to raise capital.

If impairment testing is required and time charter rates do not improve meaningfully from current market rates, we may need to recognize further impairment charges. The determination of the fair value of vessels will depend on various market factors, including charter and discount rates, ship operating costs and vessel trading values, and our reasonable assumptions at that time. The amount, if any, and timing of any impairment charges we may recognize in the future will depend upon then current and expected future charter rates, vessel utilization, operating and dry-docking expenditures, vessel residual values, inflation and the remaining expected useful lives of our vessels, which may differ materially from those used in our estimates as of December 31, 2019.

***Our vessels may be subject to extended periods of off-hire, which could materially adversely affect our business, financial condition and results of operations.***

Under the time charters for our vessels, when the vessel is not available for service, it will likely be "off-hire," in which case the charterer is generally not required to pay hire, and we will be responsible for all costs unless the charterer is responsible for the circumstances giving rise to the lack of availability. A vessel generally will be deemed to be off-hire if there is an occurrence that affects the full working condition of the vessel, such as:

- any drydocking for repairs, maintenance or classification society inspection;
- any time out of service necessary for owner to upgrade vessels to meet new regulatory requirements, such as ballast water treatment or emission control or to improve the specification and commercial characteristics of our vessels;
- any damage, defect, breakdown or deficiency of the ship's hull, machinery or equipment or repairs or maintenance thereto;
- any deficiency of the ship's master, officers and/or crew, including the failure, refusal or inability of the ship's master, officers and/or crew to perform the service immediately required, whether or not within its control;
- its deviation, other than to save life or property, which results in charterer's lost time;
- crewing labor boycotts or certain vessel arrests;



- our failure to maintain the vessel in compliance with the charter's requirements, such as maintaining operational certificates.
- the vessel's declared performance speed is reduced or fuel consumption is increased by more than 5% over a specified period of time; or
- the vessel is requisitioned by any government or governmental authority.

Additionally, the charterer may have the right to terminate the charter agreement under a number of circumstances, such as if:

- the vessel is off-hire for a specified number of days.
- the charterer informs us of a default under the charter, and the default is not rectified.
- there is a total (actual or constructive) loss of the vessel;
- the vessel is requisitioned by any government or governmental authority; or
- a vessel's declared performance speed is reduced or fuel consumption increased in excess of a pre-agreed percentage over a continuous period of an agreed number of days, (for example, consumption in excess of 10% of that declared for a given speed over a continuous period of 30 days) and the reason is within our or the vessel's control.

Our business, financial condition and results of operations may be materially adversely affected if our vessels are subject to extended periods of off-hire.

***We may be unable to make or realize expected benefits from acquisitions of vessels or container shipping-related assets and implementing our growth strategy through acquisitions which may harm our business, financial condition and operating results.***

Our growth strategy includes, among other things, selectively acquiring secondhand and, potentially, newbuilding vessels and possibly seeking to diversify our asset base by acquiring containers and other container shipping-related assets if an attractive investment opportunity presents itself in the future. Growing any business through acquisition presents numerous risks, such as undisclosed liabilities and obligations, the possibility that indemnification agreements will be unenforceable or insufficient to cover potential losses and obtaining the necessary resources to manage an enlarged business. We cannot give any assurance that we will be successful in executing our growth plans, that we will be able to employ any acquired vessels under long-term charters, that we will be able to purchase secondhand vessels or newbuildings at satisfactory prices or obtain ship management agreements with similar or better terms than those we have obtained from our current ship managers, that we will be able to purchase containers and subsequently lease them out at satisfactory prices or that we will not incur significant expenses and losses in connection with our future growth.

Factors that may limit our ability to acquire additional vessels and container shipping-related assets include competition from other owners and lessors, availability of financing, shipyard capacity for newbuildings and the limited number of modern vessels with appropriate characteristics not already subject to existing long-term or other charters. Competition from other purchasers could reduce our acquisition opportunities or cause us to pay higher prices.

Any acquisition of a vessel or container shipping-related assets may not be profitable to us and may not generate cash flow sufficient to justify our investment. In addition, our acquisition growth strategy exposes us to risks that may harm our business, financial condition and operating results, including risks that we may:

- fail to obtain financing, ship management agreements and charters on acceptable terms;

- be unable, including through our ship managers, to hire, train or retain qualified shore and seafaring personnel to manage and operate our enlarged business and fleet;
- fail to realize anticipated benefits of cost savings or cash flow enhancements;
- decrease our liquidity by using a significant portion of our available cash or borrowing capacity to finance acquisitions or by additional repayments of debt;
- significantly increase our interest expense or financial leverage if we incur additional debt to finance acquisitions; or
- incur or assume unanticipated liabilities, losses or costs associated with the vessels acquired.

***Should we expand our business or provide additional services to third parties, we may need to improve our operating and financial systems, expand our commercial and technical management staff, and recruit suitable employees and crew for our vessels.***

Our current operating and financial systems may not be adequate if we expand the size of our fleet or begin to provide additional services and attempts to improve those systems may be ineffective. In addition, we may need to recruit suitable additional administrative and management personnel to manage any growth. We may not be able to continue to hire suitable employees in such circumstances. If a shortage of experienced labor exists or if we encounter business or financial difficulties, we may not be able to adequately staff our vessels. If we expand our fleet, or begin to provide additional services, and we are unable to grow our financial and operating systems or to recruit suitable employees, our business, results of operations and financial condition may be harmed.

***We are exposed to risks associated with the purchase and operation of secondhand vessels.***

Secondhand vessels typically do not carry warranties as to their condition at the time of acquisition. While we would generally inspect secondhand containerships prior to purchase, such an inspection would normally not provide us with as much knowledge of the vessel's condition as if it had been built for and operated by us during its life. Future repairs and maintenance costs for secondhand vessels are difficult to predict and may be substantially higher than those for equivalent vessels of which we have had direct experience. These additional costs could decrease our cash flow and reduce our liquidity. There can be no assurance that market conditions will justify such expenditures or enable us to operate our vessels profitably during the remainder of the economic lives of such vessels.

***We may not perform underwater inspections of vessels prior to purchase.***

Although we would perform physical inspections of any vessel prior to its purchase, it may not be possible for us to undertake any underwater inspections. As a result, we will not be aware of any damage to a vessel that may have existed at the time of purchase and which could only be discovered through an underwater inspection. However, if any damage is subsequently found, we could incur substantial costs to repair the damage which would not be recoverable from the sellers.

***Our ability to enter time charters or grow may be reduced by the introduction of new accounting rules for leasing.***

The new U.S. accounting standard on lease accounting ASU 2016-02 "Leases" ("the new lease standard"), became effective for financial years that began after December 15, 2018. The new lease standard has the effect of bringing most off-balance sheet leases onto a lessee's balance sheet as a right-of-use asset and a lease liability for all leases, including operating leases, with a term greater than 12 months. This change could affect our customers and potential customers and may cause them to breach certain financial covenants. This may make them less likely to enter into time charters for our containerships, which could reduce our ability to enter into new charters or growth opportunities.

***We must make substantial expenditures to maintain our fleet, meet new regulatory requirements or to acquire vessels.***

We must make substantial expenditures to maintain our fleet and we generally expect to finance these expenditures from operating cash flow. In addition, we will need to make substantial capital expenditures to acquire vessels in accordance with our growth strategy. Further, we may be obliged to make substantial expenditures to become compliant with changes in the regulatory environment, particularly concerning emission control and ballast water treatment. We may also incur substantial expenditure to improve the specification and commercial characteristics of some of our vessels. Maintenance expenditures could increase as a result of, among other things, the cost of labor and materials, customer requirements and governmental regulations and maritime self-regulatory organization standards relating to safety, security or the environment. If we are unable to generate sufficient operating cash flow, we will need to fund these significant expenditures, including those required to maintain our fleet, with additional borrowings or otherwise find alternative sources of financing. Such financing arrangements may not be available on satisfactory economic terms or at all, which could have a material adverse effect on our business and results of operations.

***As our fleet ages, we may incur increased operating costs beyond normal inflation, which would adversely affect our results of operations.***

In general, the day-to-day cost of operating and maintaining a vessel increases with age. In addition, older vessels are typically less fuel efficient and may attract lower charter rates compared to modern, more fuel-efficient vessels. Governmental regulations and safety or other equipment standards may also require expenditures for modifications or the addition of new equipment and may restrict the type of activities in which our vessels may engage. We cannot assure you that, as our vessels age, market conditions will justify any such expenditures or expenditures to otherwise improve their operating characteristics, such as fuel efficiency to enable us to operate our vessels profitably during the remainder of their useful lives, which could adversely affect our results of operations. Our fleet of 43 vessels as of December 31, 2019 had an average age weighted by TEU capacity of 12.5 years.

***Unless we set aside reserves or are able to borrow funds for vessel replacement, at the end of the useful lives of our vessels our revenue will decline, which would adversely affect our business, results of operations and financial condition.***

Our fleet of 43 vessels as of December 31, 2019 had an average age weighted by TEU capacity of 12.5 years. Unless we maintain reserves or are able to borrow or raise funds for vessel replacement, we will be unable to replace the older vessels in our fleet. Our cash flows and income are dependent on the revenues earned by the chartering of our containerships. The inability to replace the vessels in our fleet upon the expiration of their useful lives could have a material adverse effect on our business, results of operations and financial condition. Any reserves set aside by any of our subsidiaries for vessel replacement will not be available for servicing our indebtedness.

***Our business depends upon certain individuals who may not necessarily continue to be affiliated with us in the future.***

Our current performance and future success depend to a significant extent upon our Executive Chairman, George Giouroukos, our Chief Executive Officer, Ian J. Webber, our Chief Commercial Officer, Thomas A. Lister, and our Chief Financial Officer, Anastasios Psaropoulos, who collectively have almost 100 years of cumulative experience in the shipping industry and have worked with several of the world's largest shipping, ship leasing and ship management companies. They and members of the board of directors are crucial to the execution of our business strategies and to the growth and development of our business. Mr. Giouroukos has committed to spend approximately 50% on his time on matters related to our affairs. If these individuals were no longer to be affiliated with us, or if we were to otherwise cease to receive advisory services from them, we may be unable to recruit other employees with equivalent talent and experience, and our business and financial condition may suffer as a result.

***Rising crew and other vessel operating costs may adversely affect our profits.***

Acquiring and renewing charters with leading liner companies depends on a number of factors, including our ability to man our containerships with suitably experienced, high quality masters, officers and crews. The limited supply of and increased demand for well-qualified crew, due to the increase in the size of the global shipping fleet, has from time to time created upward pressure on crewing costs, which we generally bear under our time charters. Increases in crew costs and other vessel operating costs such as insurance, repairs and maintenance, and lubricants may adversely affect our profitability. In addition, if we cannot retain a sufficient number of high quality onboard seafaring personnel, our fleet utilization will decrease, which could have a material adverse effect on our business, results of operations and financial condition.

***Increased fuel prices may have a material adverse effect on our profits.***

The cost of fuel is a significant factor in negotiating charter rates and can affect us both directly and indirectly. The cost of fuel will be borne by us when our vessels are offhire, being positioned for and undergoing drydockings, between charters and when employed on voyage charters or contracts of affreightment. We currently have no voyage charters or contracts of affreightment, but we may enter into such arrangements in the future, and to the extent we do so, an increase in the price of fuel beyond our expectations may adversely affect our profitability. Even where the cost of fuel is ordinarily borne by the charterer, which is the case with all of our existing time charters, that cost will affect the level of charter rates that charterers are prepared to pay, depending in part on the fuel efficiency of a particular vessel.

The price of fuel is unpredictable and fluctuates based on events outside our control, including but not limited to geo-political developments, supply and demand for oil, actions by members of the Organization of the Petroleum Exporting Countries (“OPEC”) and other oil and gas producers, economic or other sanctions levied against oil and gas producing countries, war and unrest in oil producing countries and regions, regional production patterns and environmental concerns and regulations.

In addition, since the implementation of the International Maritime Organization’s regulations limiting sulfur emissions (“IMO 2020 Sulfur Regulation”) effective January 1, 2020, our vessels have been and continue to be operated using compliant low sulfur fuels, the price of which has increased as a result of increased demand. Fuel may continue to be more expensive, which may reduce our profitability and the competitiveness of our business compared to other forms of transportation. Further, as fuel costs are generally paid by our charterers, high fuel prices may impact their profitability if they are unable to pass these costs through to their customers. High fuel prices could have a material adverse effect on our business, results of operations and financial condition.

***Volatility in the London Interbank Offered Rate, or LIBOR, could affect our profitability, earnings and cash flow.***

LIBOR may be volatile, with the spread between LIBOR and the prime lending rate widening significantly at times. These conditions are the result of disruptions in the international markets. At times when we have loans outstanding which are based on LIBOR, the interest rates borne by such loan facilities fluctuate with changes in LIBOR, and this would affect the amount of interest payable on our debt, which, in turn, could have an adverse effect on our profitability, earnings and cash flow. Recently, however, there is uncertainty relating to the LIBOR calculation process which is expected to result in the phasing out of LIBOR in the future. Indeed, the banks currently reporting information used to set LIBOR will likely stop such reporting after 2021, when their commitment to reporting information ends. The Alternative Reference Rate Committee, or “Committee,” a committee convened by the U.S. Federal Reserve that includes major market participants, has proposed an alternative rate to replace U.S. Dollar LIBOR: the Secured Overnight Financing Rate, or “SOFR.” However, SOFR and other alternatives are fundamentally different to LIBOR and to each other and there can be no assurance that any alternative reference rate would become widely accepted. The impact of such a transition away from LIBOR would be significant for us because of our substantial indebtedness.

In the event of the continued or permanent unavailability of LIBOR, many of our financing agreements contain a provision requiring or permitting us to enter into negotiations with our lenders to agree to an alternative interest rate or an alternative basis for determining the interest rate. These clauses present significant uncertainties as to how alternative reference rates or alternative bases for determination of rates would be agreed upon, as well as the potential for disputes or litigation with our lenders regarding the appropriateness or comparability to LIBOR of any substitute indices. In the absence of an agreement between us and our lenders, most of our financing agreements provide that LIBOR would be replaced with some variation of the lenders' cost-of-funds rate. The discontinuation of LIBOR presents a number of risks to our business, including volatility in applicable interest rates among our financing agreements, increased lending costs for future financing agreements or unavailability of or difficulty in attaining financing, which could in turn have an adverse effect on our profitability, earnings and cash flow.

***We are a holding company and we depend on the ability of our subsidiaries to distribute funds to us in order to satisfy our financial and other obligations.***

We are a holding company and have no significant assets other than the equity interests in our subsidiaries. Our subsidiaries own all of the vessels and payments under charters are made to them. As a result, our ability to pay dividends and meet any debt service obligations and other liabilities depends on the performance of our subsidiaries and their ability to distribute funds to us. The ability of our subsidiaries to pay dividends or make other distributions or payments to us will be subject to the availability of profits or funds for such purpose which, in turn, will depend on the future performance of the subsidiary concerned which, to a certain extent, is subject to general economic, financial, competitive, legislative, regulatory and other factors that may be beyond its control. Additionally, the ability of our subsidiaries to make these distributions could be affected by the provisions of our financing arrangements or a claim or other action by a third party, including a creditor, or by English, Marshall Islands, Cypriot or Hong Kong law or the laws of any jurisdiction which regulates the payment of dividends by companies. Applicable tax laws may also subject such payments to further taxation. Applicable law may also limit the amounts that some of our subsidiaries will be permitted to pay as dividends or distributions on their equity interests, or even prevent such payments. Limitations on our ability to transfer cash among and within our group may mean that even though we, in aggregate, may have sufficient resources to meet our obligations, we may not be permitted to make the necessary transfers from one entity in our group to another entity in our group in order to make payments on our obligations. Therefore, if we are unable to obtain funds from our subsidiaries, we may not be able to pay dividends, including on our Series B Preferred Shares, or meet our debt service obligations or our other liabilities.

***Because we generate all of our revenues in U.S. dollars but incur a portion of our expenses in other currencies, exchange rate fluctuations could hurt our results of operations.***

We generate all of our revenues in U.S. dollars and some of our expenses are denominated in currencies other than U.S. dollars. This currency mismatch could lead to fluctuations in net income due to changes in the value of the U.S. dollar relative to other currencies. Expenses incurred in foreign currencies against which the U.S. dollar falls in value could increase, thereby decreasing our net income. We have not hedged any of this exposure and our U.S. dollar denominated results of operations and financial condition and ability to pay dividends could suffer from adverse currency exchange rate movements. Future declines in the U.S. dollar versus other currencies could have a material adverse effect on our operating expenses and net income.

***Our insurance may be insufficient to cover losses that may occur to our property or result from our operations.***

The shipping industry has inherent operational risks. Although we carry hull and machinery insurance, war risks insurance and protection and indemnity insurance (which includes coverage for environmental damage and pollution) and other insurances commonly held by vessel owners, we may not be adequately insured against all risks or our insurers may not pay every claim. Even if our insurance coverage is adequate to cover our losses, we may not be able to obtain a replacement vessel in the event of a total or constructive total loss in a timely manner. Further, under our financings, we are subject to restrictions on the use of any proceeds we may receive under claims in the event of a total or constructive total loss. Furthermore, in the future, we may not be able to obtain adequate insurance coverage at reasonable rates for our fleet. We may also be subject to calls, or premiums, in amounts based not only on our own claim records but also the claim records of all other members of the protection and indemnity associations through which we receive indemnity insurance coverage for tort liability. In addition, insurers typically charge additional premiums if vessels transit certain "excluded areas," which may be subject to higher risk of piracy, war or terrorism. We cannot be certain that our insurers will continue to provide such cover, or that we will be able to recover these increased costs from our charterers. Our insurance policies also contain deductibles, limitations and exclusions which, although we believe are standard in the shipping industry, may nevertheless increase our costs.

In addition, we do not presently carry loss-of-hire insurance, which covers the loss of revenue during extended vessel off-hire periods, such as those that might occur during an unscheduled drydocking due to damage to the vessel from a major accident. Accordingly, any vessel that is off hire for an extended period of time, due to an accident or otherwise, could have a material adverse effect on our business, results of operations and financial condition.

***We are incorporated in the Republic of the Marshall Islands, which does not have a well-developed body of corporate law.***

Our corporate affairs are governed by our articles of incorporation and bylaws and by the Business Corporations Act of the Republic of the Marshall Islands, or BCA. The provisions of the BCA resemble provisions of the corporation laws of a number of states in the United States. However, there have been very few judicial cases in the Republic of the Marshall Islands interpreting the BCA. The rights and fiduciary responsibilities of directors under the law of the Republic of the Marshall Islands are not as clearly established as the rights and fiduciary responsibilities of directors under statutes or judicial precedent in existence in certain U.S. jurisdictions. Shareholder rights may differ as well. While the BCA does specifically incorporate the non-statutory law, or judicial case law, of the State of Delaware and other states with substantially similar legislative provisions, our shareholders may have more difficulty in protecting their interests in the face of actions by the management, directors or controlling shareholders than would shareholders of a corporation incorporated in a U.S. jurisdiction.

***A cyber-attack could materially disrupt our business.***

We rely on information technology systems and networks in our operations and administration of our business. Information systems are vulnerable to security breaches by computer hackers and cyber terrorists. We rely on industry accepted security measures and technology to securely maintain confidential and proprietary information maintained on our information systems. However, these measures and technology may not adequately prevent security breaches. Our business operations could be targeted by individuals or groups seeking to sabotage or disrupt our information technology systems and networks, or to steal data. A successful cyber-attack could materially disrupt our operations, including the safety of our operations, or lead to unauthorized release of information or alteration of information in our systems. Any such attack or other breach of our information technology systems could have a material adverse effect on our business and results of operations. In addition, the unavailability of the information systems or the failure of these systems to perform as anticipated for any reason could disrupt our business and could result in decreased performance and increased operating costs, causing our business and results of operations to suffer. Any significant interruption or failure of our information systems or any significant breach of security could adversely affect our business and results of operations.

#### **Risks Relating to Our Industry**

***Our growth and long-term profitability depend mainly upon growth in demand for containerships, the condition of the charter market and the availability of capital. The container shipping industry is cyclical and volatile.***

Container shipping industry is both seasonal and cyclical but has shown positive demand growth in every year of its history except 2009. According to MSI, between 1993 and 2008, which included a period of super-cyclical growth partly fueled by a significant increase in trade with China, containerized trade grew at an annual compound rate of over 9.0%. The global financial crisis, from late 2008, prompted a contraction of demand, with 2009 volumes falling by around 8.0%. In 2010, demand rebounded, with volume growth of approximately 15.0%. Between 2011 and 2018 average compound annual growth of containerized trade was 3.5%. Full year growth in 2019 is estimated at 2.0%, despite negative sentiment resulting from increased trade tensions between the U.S. and China. On the supply side, cellular containership capacity grew by a compound annual rate of 6.1% from 2009 through 2018. In 2019, supply is estimated to have expanded by approximately 4.0% and, as of December 31, 2019, the containership fleet stood at approximately 5,300 ships, with an aggregate capacity estimated at 22.9 million TEU.

Weak conditions in the containership sector may affect our ability to generate cash flows and maintain liquidity, as well as adversely affect our ability to obtain financing.

The factors affecting the supply and demand for containerships and container shipping services are outside our control, and the nature, timing and degree of changes in industry conditions are unpredictable.

The factors that influence demand for containership capacity include:

- supply and demand for products suitable for shipping in containers;
- changes in the pattern of global production of products transported by containerships;
- the globalization of manufacturing;
- global and regional economic and political conditions;
- developments in international trade;
- changes in seaborne and other transportation patterns, including changes in the distances over which container cargoes are transported, the size of containerships, the extent of trans-shipments and the competitiveness of other forms of marine transportation including dry bulk and refrigerated vessels;
- environmental and other legal and regulatory developments;
- the price of oil and economics of slow steaming;
- the availability of trade finance and currency exchange rates; and
- port and canal congestion.

The factors that influence the supply of containership capacity include:

- the containership newbuilding orderbook;
- the availability of financing;
- the scrapping rate of containerships;
- the number of containerships off-hire or otherwise idle including laid-up;
- the price of steel and other raw materials;
- changes in environmental and other laws and regulations that may limit the useful life of containerships;
- the availability of shipyard capacity;
- port and canal congestion; and
- the extent of slow steaming.

Our ability to recharter our containerships upon the expiration of their current charters. Of our fleet of 45 containerships (including the two ships which delivered in early 2020) nine have charters which either have expired or may expire before the end of the first half of 2020 and a further 12 have charters which may expire during the second half of 2020. Charter rates receivable under any renewal or replacement charters will depend upon, among other things, the prevailing state of the containership charter market. If the charter market is depressed when our charters expire, we may be forced to recharter our containerships at reduced or even unprofitable rates, or we may not be able to recharter them at all, which may reduce or eliminate our results of operations or make our results of operations volatile. The same issues will exist in respect of any additional vessels we may acquire either when obtaining the initial charters or on rechartering at their expiry.

***Our financial and operating performance may be adversely affected by global public health threats, including the recent outbreak of the novel coronavirus (COVID-19).***

Public health threats, such as the coronavirus (COVID-19), influenza and other highly communicable diseases or viruses, outbreaks of which from time to time occur in various parts of the world in which we operate, including China, could adversely impact our operations and the operations of our customers. The recent pandemic of the novel coronavirus (COVID-19) could, among other things, cause delayed or extended drydockings, disrupt our operations from non-availability of staff and materials and significantly affect global markets, affecting the demand for container shipping services, and therefore charter rates and asset values. If the effect of the coronavirus (COVID-19) is ongoing, we may be unable to recharter our ships at appropriate rates or durations.

Additionally, any prolonged restrictive measures implemented in order to control or contain the coronavirus (COVID-19) or other global public health threats may have a material and adverse effect on our business operations and demand for our vessels generally.

***Seasonal fluctuations could affect our operating results and available cash from quarter to quarter.***

We operate our vessels in markets that have historically exhibited seasonal, as well as cyclical, variations in demand and, as a result, in charter hire rates. This seasonality may result in quarter-to-quarter volatility in our operating results, which could affect the amount of our cash flow.

***A decrease in the export of goods or an increase in trade protectionism will harm our customers' business and, in turn, harm our business, results of operations and financial condition.***

Much of our customers' containership business revenue is derived from the shipment of goods from the Asia Pacific region, primarily China, to various overseas export markets, including the United States and Europe. Any reduction in or hindrance to the output of China-based exporters could negatively affect the growth rate of China's exports and our customers' business. For instance, the government of China has implemented economic policies aimed at increasing domestic consumption of Chinese-made goods. This may reduce the supply of goods available for export and may, in turn, result in a decrease in shipping demand. Additionally, though in China there is an increasing level of autonomy and a gradual shift in emphasis to a "market economy" and enterprise reform, many of the reforms, particularly some limited price reforms that result in the prices for certain commodities being principally determined by market forces, are unprecedented or experimental and may be subject to revision, change or abolition. The level of imports to and exports from China could be adversely affected by changes to these economic reforms by the Chinese government, as well as by changes in political, economic and social conditions or other relevant policies of the Chinese government. Changes in laws and regulations in China, including with regards to tax matters, and their implementation by local authorities could affect our charterers' business and have a material adverse impact on our business, results of operations and financial condition.

Our international operations expose us to the risk that increased trade protectionism will harm our business. In times of global economic challenge, governments may turn to trade barriers to protect their domestic industries against foreign imports, thereby depressing shipping demand. In particular, there have been continuing trade tensions, including significant tariff increases, between the United States and China, resulting in leaders of the United States and China implementing certain increasingly protective trade measures, which have been somewhat mitigated by the recent trade deal (first phase trade agreement) between the United States and China in early 2020 which, among other things, requires China to purchase approximately \$200 billion in American products and services over the next two years, and future phases may result in decreased tariffs. However, protectionist developments, or the perception that they may occur, could have a material adverse effect on global economic conditions, and may significantly reduce global trade. Moreover, increasing trade protectionism may cause an increase in (i) the cost of goods exported from regions globally, (ii) the length of time required to transport goods and (iii) the risks associated with exporting goods. Such increases may significantly affect the quantity of goods to be shipped, shipping time schedules, voyage costs and other associated costs, which could have an adverse impact on our charterers' business, operating results and financial condition and could thereby affect their ability to make timely charter hire payments to us and to renew and increase the number of their time charters with us. This could have a material adverse effect on our business, results of operations, financial condition and our ability to pay any cash distributions to our stockholders.



***Adverse economic conditions, especially in the Asia Pacific region, the European Union or the United States, could harm our business, results of operations and financial condition.***

Because a significant number of the port calls made by our vessels involves the loading or discharging of containerships in ports in the Asia Pacific region, economic turmoil in that region may exacerbate the effect of any economic slowdown on us. China has been one of the world's fastest growing economies in terms of gross domestic product, or GDP, which has increased the demand for shipping. However, China's rate of real GDP growth has fallen from its historical highs. The United States has also implemented more protectionist trade measures in an effort to protect and enhance its domestic economy. Additionally, the European Union, or the EU, and certain of its member states are facing significant economic and political challenges, including a risk of increased protectionist policies and the withdrawal of the United Kingdom from the European Union. Our business, results of operations and financial condition will likely be harmed by any significant economic downturn in the Asia Pacific region, including China, or in the EU or the United States.

The global economy experienced disruption and volatility following adverse changes in global capital markets commencing in 2007 and 2008. The deterioration in the global economy caused, and any renewed deterioration may cause, a decrease in worldwide demand for certain goods and shipping. Economic instability could harm our business, results of operations and financial condition.

***Disruptions in world financial markets and the resulting governmental action in the United States and in other parts of the world could have a material adverse impact on our results of operations, financial condition and cash flows.***

Global financial markets and economic conditions have been severely disrupted and volatile at times in recent years and remain subject to significant vulnerabilities, such as the deterioration of fiscal balances and the rapid accumulation of public debt, continued deleveraging in the banking sector and limited supply of credit. Credit markets and the debt and equity capital markets have been exceedingly distressed and volatile. The sovereign debt crisis in countries such as Cyprus and Greece, for example, and concerns over debt levels of certain other European Union member states and other countries around the world, as well as concerns about some international banks, has increased volatility in global credit and equity markets. These issues, along with the re-pricing of credit risk and the difficulties currently experienced by financial institutions have made, and will likely continue to make, it difficult to obtain financing. As a result of the disruptions in the credit markets, many lenders have increased margins, enacted tighter lending standards, required more restrictive terms (including higher collateral ratios for advances, shorter maturities and smaller loan amounts), or refused to refinance existing debt at all or on terms similar to our current debt. Furthermore, certain banks that have historically been significant lenders to the shipping industry have announced an intention to reduce or cease lending activities in the shipping industry. New banking regulations, including larger capital requirements and the resulting policies adopted by lenders, could reduce lending activities. We may experience difficulties obtaining financing commitments in the future if current or future lenders are unwilling to extend financing to us or unable to meet their funding obligations due to their own liquidity, capital or solvency issues.

We cannot be certain that financing or refinancing will be available on acceptable terms or at all. If financing or refinancing is not available when needed, or is available only on unfavorable terms, we may be unable to meet our future obligations as they come due. Our failure to obtain such funds could have a material adverse effect on our business, results of operations and financial condition, as well as our cash flows, including cash available for dividends to our shareholders. In the absence of available financing, we also may be unable to take advantage of business opportunities or respond to competitive pressures.

***The U.K.'s withdrawal from the European Union may have a negative effect on global economic conditions, financial markets and our business.***

In June 2016, a majority of voters in the U.K. elected to withdraw from the EU in a national referendum (informally known as “Brexit”), a process that the government of the U.K. formally initiated in March 2017. Since then, the U.K. and the EU have been negotiating the terms of a withdrawal agreement, which was approved in October 2019 and ratified in January 2020. The U.K. formally exited the EU on January 31, 2020, although a transition period remains in place until December 2020, during which the U.K. will be subject to the rules and regulations of the EU while continuing to negotiate the parties’ relationship going forward, including trade deals. There is currently no agreement in place regarding the aftermath of the withdrawal, creating significant uncertainty about the future relationship between the U.K. and the EU, including with respect to the laws and regulations that will apply as the U.K. determines which EU-derived laws to replace or replicate following the withdrawal. Brexit has also given rise to calls for the governments of other EU member states to consider withdrawal. These developments and uncertainties, or the perception that any of them may occur, have had and may continue to have a material adverse effect on global economic conditions and the stability of global financial markets, and may significantly reduce global market liquidity and restrict the ability of key market participants to operate in certain financial markets. Any of these factors could depress economic activity and restrict our access to capital, which could have a material adverse effect on our business and on our consolidated financial position, results of operations and our ability to pay distributions. Additionally, Brexit or similar events in other jurisdictions, could impact global markets, including foreign exchange and securities markets; any resulting changes in currency exchange rates, tariffs, treaties and other regulatory matters could in turn adversely impact our business and operations.

Brexit contributes to considerable uncertainty concerning the current and future economic environment. Brexit could adversely affect European or worldwide political, regulatory, economic or market conditions and could contribute to instability in global political institutions, regulatory agencies and financial markets.

***We may have more difficulty entering into long-term charters if a more active and cheaper short-term or spot container shipping market develops.***

At the expiration of our charters or if a charter terminates early for any reason or if we acquire vessels charter-free, we will need to charter or recharter our vessels. If an excess of vessels is available on the spot or short-term market at the time we are seeking to fix new longer-term charters, we may have difficulty entering into such charters at all or at profitable rates and for any term other than short term and, as a result, our cash flow may be subject to instability in the mid to long-term. In addition, it would be more difficult to fix relatively older vessels should there be an oversupply of younger vessels on the market. A depressed spot market may require us to enter into short-term spot charters based on prevailing market rates, which could result in a decrease in our cash flow.

***An over-supply of containership capacity may lead to reductions in charter hire rates and profitability.***

While the size of the containership orderbook has declined substantially since its peak in 2008/2009, the containership newbuilding orderbook as of January 1, 2020 represented approximately 10.9% of the total on the water fleet capacity. Further containerships are likely to be ordered. Notwithstanding scrapping, delivery of newly built containerships will likely result in an increase in the size of the world containership fleet over the next few years. An over-supply of containership capacity, combined with any decline in the rate of growth in demand for containerships, would be likely to result in a reduction of charter hire rates. If such a reduction occurs when we seek to charter newbuilding vessels, our growth opportunities may be diminished. If such a reduction occurs upon the expiration or termination of our containerships’ current time charters, we may only be able to recharter our containerships for reduced rates or unprofitable rates or we may not be able to recharter our containerships at all, which would have a material adverse effect on our business, financial condition and results of operation.

***Increased competition in technology and innovation could reduce our charter hire income and the value of our vessels.***

The charter rates and the value and operational life of a vessel are determined by a number of factors, including the vessel's efficiency, operational flexibility and physical life. Efficiency includes speed and fuel economy. Flexibility includes the ability to enter harbors, utilize related docking facilities and pass through canals and straits together with other vessel specifications such as the capacity to carry temperature controlled containers (reefers). Physical life is related to the original design and construction, maintenance and the impact of the stress of operations. If new ship designs currently promoted by shipyards as being more fuel efficient perform, or if new containerships built in future that are more efficient or flexible or have longer physical lives than our vessels, competition from these more technologically advanced containerships could adversely affect our ability to re-charter, the amount of charter-hire payments that we receive for our containerships once their current time charters expire and the resale value of our containerships. This could adversely affect our ability to service our debt or pay dividends to our shareholders.

***Acts of piracy on ocean-going vessels have increased in frequency, which could adversely affect our business.***

Piracy is an inherent risk in the operation of ocean-going vessels and particularly affects vessels operating in specific regions of the world such as the South China Sea, the Gulf of Aden, the Arabian Sea, off the coast of West Africa and off the coast of Somalia. Generally, we do not control the routing of our vessels, which is determined by the charterer. Pirate attacks on any of our vessels could result in loss of life, the kidnapping of crew or the theft, damage or destruction of vessels or of containers or cargo being transported thereon. In addition, while we believe the charterer remains liable for charter payments when a vessel is seized by pirates, the charterer may dispute this and withhold charter hire until the vessel is released. A charterer may also claim that a vessel seized by pirates was not "on-hire" for a certain number of days and it is therefore entitled to cancel the charter party, a claim that we would dispute. We may not be adequately insured to cover losses from these incidents, which could have a material adverse effect on our business, results of operations and financial condition. In addition, insurance premiums and costs such as onboard security guards, should we decide to employ them, could increase in such circumstances. Further, acts of piracy may materially adversely affect our charterer's business, impairing its ability to make payments to us under our charters.

***Terrorist attacks and international hostilities could affect our results of operations and financial condition.***

Terrorist attacks and the continuing response of the United States and other countries to these attacks, as well as the threat of future terrorist attacks, continue to cause uncertainty in the world financial markets and may affect our business, results of operations and financial condition from increased security costs and more rigorous inspection procedures at borders and ports. From time to time, acts of terrorism, regional conflict and other armed conflict around the world may contribute to further economic instability in the global financial markets. These uncertainties could also adversely affect our ability to obtain additional financing on terms acceptable to us or at all.

Terrorist attacks targeted at oceangoing vessels may also negatively affect our future operations and financial condition from, for example, increased insurance costs, and directly impact our containerships or our charterer. Future terrorist attacks could result in increased market volatility or even a recession in the United States or elsewhere or negatively affect global financial markets and could further increase inspection and security requirements and regulation that could slow our operations and negatively affect our profitability. Any of these occurrences could have a material adverse impact on our operating results, revenue and costs.

***If our vessels call on ports located in countries or territories that are subject to sanctions or embargoes imposed by the United States government, the European Union, the United Nations, or other governments, it could lead to monetary fines or penalties and have a material adverse effect on the market for our securities.***

Although we do not expect that our vessels will call on ports located in countries or territories subject to country-wide or territory-wide sanctions and/or embargoes imposed by the U.S. government or other authorities or countries identified by the U.S. government or other authorities as state sponsors of terrorism ("Sanctioned Jurisdictions"), and we endeavor to take precautions reasonably designed to mitigate such activities, including relevant provisions in charter agreements forbidding the use of our vessels in trade that would violate economic sanctions, on charterers' instructions and without our consent, our vessels may call on ports located in such countries or territories in the future. If such activities result in a sanctions violation, we could be subject to monetary fines, penalties, or other sanctions, and our reputation and the market for our common shares could be adversely affected.

The sanctions and embargo laws and regulations vary in their application, as they do not all apply to the same covered persons or proscribe the same activities and may be amended or strengthened over time. Current or future counterparties of ours may be affiliated with persons or entities that are or may be in the future the subject of sanctions imposed by the U.S. administration, the EU, and/or other international bodies. If we determine that such sanctions require us to terminate existing or future contracts to which we or our subsidiaries are party or if we are found to be in violation of such applicable sanctions, our results of operations may be adversely affected or we may suffer reputational harm. Currently, we do not believe that any of our existing counterparties are affiliated with persons or entities that are subject to such sanctions.

To the best of our knowledge, none of our vessels have called at ports in Sanctioned Jurisdictions since January 1, 2014, nor have we provided any services or products to Sanctioned Jurisdiction, or entered into any agreements, commercial arrangements or had any contact with the governments of, or entities controlled by the governments of, Sanctioned Jurisdictions, during this time period. Additionally, neither we nor our affiliates have, since January 1, 2014, knowingly provided any services or products to Iran, or entered into any agreements, commercial arrangements or had any contact with the government of, or entities controlled by the government of Iran.

Although we believe that we have been in compliance with all applicable sanctions and embargo laws and regulations, and intend to maintain such compliance, there can be no assurance that we will be in compliance in the future, particularly as the scope of certain laws may be unclear and may be subject to changing interpretations. Any such violation could result in fines, penalties or other sanctions that could severely impact our ability to access U.S. capital markets and conduct our business, and could result in some investors deciding, or being required, to divest their interest, or not to invest, in us. In addition, certain institutional investors may have investment policies or restrictions that prevent them from holding securities of companies that have contracts with Sanctioned Jurisdictions and certain financial institutions may have policies against lending or extending credit to companies that have contracts with Sanctioned Jurisdictions. The determination by these investors not to invest in, or to divest from, our common shares or the determination by these financial institutions not to offer financing may adversely affect the price at which our common shares trade. Moreover, our charterers may violate applicable sanctions and embargo laws and regulations as a result of actions that do not involve us or our vessels, and those violations could in turn negatively affect our reputation. In addition, our reputation and the market for our securities may be adversely affected if we engage in certain other activities, such as entering into charters with individuals or entities in countries or territories subject to U.S. sanctions and embargo laws that are not controlled by the governments of those countries or territories, or engaging in operations associated with those countries or territories pursuant to contracts with third parties that are unrelated to those countries or territories or entities controlled by their governments. Investor perception of the value of our common shares may be adversely affected by the consequences of war, the effects of terrorism, civil unrest and governmental actions in these and surrounding countries.

***It may not be possible for some of our vessels to call on Turkish ports due to the Turkish embargo on Cypriot flag vessels and vessels owned by Cypriot companies.***

In 1987, the Turkish Government introduced certain restrictive measures against Cypriot owned or flagged vessels prohibiting such vessels to call on Turkish ports. In 1997, the restrictive measures were extended and since then they apply not only against Cypriot flag vessels but also against vessels registered under a foreign flag (of any nationality) sailing to Turkish ports directly from any Cypriot port under the effective control of the Republic of Cyprus or against vessels of any flag related to the Republic of Cyprus in terms of ownership or ship management. Cypriot vessels will be allowed passage through the Turkish Straits (Bosphorus) with or without pilot but no other services or provisions will be given, including bunker supply. Currently, nine of our 45 vessels are owned by Cypriot companies and of these five are Cyprus flagged. Whilst the restrictive measures remain in place, our vessels which are either Cypriot flagged or owned by a Cypriot company may not call on Turkish ports. This may restrict the use of Cypriot ports by our charterers and may have an adverse effect on the possible operation of our vessels by them in the Eastern Mediterranean and the Black Sea or give rise to costs to change the ownership and flag of relevant vessels to permit trading to Turkey.

***The smuggling of drugs, weapons or other contraband and stowaways on our vessels may lead to governmental claims against us.***

We expect that our vessels will call in areas where smugglers attempt to hide drugs, weapons and other contraband on vessels or stowaways attempt to board, with or without the knowledge of crew members. To the extent our vessels are found with contraband or stowaways, whether with or without the knowledge of any of our crew or charterers, we may face governmental or other regulatory claims, which could have a material adverse effect on our business, results of operations, cash flows and financial condition.

***We are exposed to significant risks in relation to compliance with anti-corruption laws and regulations.***

Our business entails numerous interactions with government authorities, including port authorities, health, safety, and environment authorities, labor and tax authorities and customs and immigration authorities. Furthermore, at our charterer's direction, our vessels call at ports throughout the world, including in some countries where corruption is endemic. Although we have strict and adequate procedures prohibiting our employees or persons associated with us from making unlawful payments to government officials, we cannot guarantee that such payments may not be made despite our procedures and without our approval. In such case, such payments may be deemed to have violated anti-corruption laws potentially applicable to us, including the UK Bribery Act 2010 (the "Bribery Act") and the U.S. Foreign Corrupt Practices Act (the "FCPA"). Both civil and criminal penalties may be imposed on us as a result of violations of anti-corruption laws, and such penalties could have a material adverse impact on our reputation, business and financial condition.

***Risks inherent in the operation of containerships could impair the ability of the charterer to make payments to us, increase our costs or reduce the value of our assets.***

Our containerships and their cargoes are at risk of being damaged or lost because of events such as marine accidents, bad weather, mechanical failures, human error, war, terrorism, piracy, environmental accidents and other circumstances or events. Any of these events connected to our vessels or other vessels under the charterer's control, or any other factor which negatively affects the charterer's business such as economic downturn and significant cyclical depression in the container shipping industry, could impair the ability of the charterer to make payments to us pursuant to our charters. Although the charterer is obligated to pay us charterhire regardless of the amount of cargo being carried on board, it is possible that generally low cargo volumes and low freight rates or events noted above may render the charterer financially unable to pay us its hire. Furthermore, there is a risk that a vessel may become damaged, lost or destroyed during normal operations and any such occurrence may cause us additional expenses to repair or substitute the vessel or may render us unable to provide the vessel for chartering, which will cause us to lose charter revenue.

These occurrences could also result in death or injury to persons, loss of property or environmental damage, loss of revenues from or termination of charter contracts, governmental fines, penalties or restrictions on conducting business, higher insurance rates, and damage to our reputation and customer relationships generally. Any of these circumstances or events could increase our costs or lower our revenues, which could result in reduction in the market price of our common shares.

***Governments could requisition our vessels during a period of war or emergency without adequate compensation, which under most of our time charter agreements would permit the customer to terminate the charter agreement for that vessel.***

A government could requisition one or more of our vessels for title or for hire. Requisition for title occurs when a government takes control of a vessel and becomes its owner, while requisition for hire occurs when a government takes control of a vessel and effectively becomes its charterer at dictated charter rates. Generally, requisitions occur during periods of war or emergency, although governments may elect to requisition vessels in other circumstances. Although we would likely be entitled to compensation in the event of a requisition of one or more of our vessels, the amount and timing of payment would be uncertain. Additionally, under most of our time charter agreements, if a vessel is requisitioned, our customer has the option to terminate the charter agreement within 14 days of receipt of notice of the requisition. Government requisition of one or more of our vessels may negatively impact our revenues and cash flow.

***If labor or other interruptions are not resolved in a timely manner, they could have an adverse effect on our business, results of operations, cash flows, financial condition and available cash.***

In addition to providing services to us our technical managers are responsible for recruiting the senior officers and other crew members for our vessels. If not resolved in a timely and cost-effective manner, industrial action or other labor unrest or any other labor interruption, could prevent or hinder our operations from being carried out as we expect and could have an adverse effect on our business, financial condition, operating results, distribution of dividends or the trading price of our common shares.

***Reliability of suppliers may limit our ability to obtain supplies and services when needed.***

We rely, and will continue to rely, on a significant supply of consumables, spare parts and equipment to operate, maintain, repair and upgrade our fleet of ships. Delays in delivery or unavailability of supplies could result in off-hire days due to consequent delays in the repair and maintenance of our fleet which would negatively impact our revenues and cash flows. Cost increases could also negatively impact our future operations.

***Compliance with safety and other vessel requirements imposed by classification societies may be costly and may adversely affect our business and operating results.***

The hull and machinery of every commercial vessel must conform to the rules and standards of a classification society approved by the vessel's country of registry. Such societies set the rules and standards for the design, construction, classification, and surveys of vessels and conduct surveys to determine whether vessels are in compliance with such rules and standards. A certification by a society is an attestation that the vessel is in compliance with the society's rules and standards. A vessel involved in international trade must also conform to national and international regulations on safety, environment and security, including (but not limited to) the Safety of Life at Sea Convention, or SOLAS, and the International Convention for the Prevention of Pollution from Ships. A vessel conforms to such regulations by obtaining certificates from its country of registry and/or a classification society authorized by the country of registry.

A vessel must undergo annual surveys, intermediate surveys and special surveys. In lieu of a special or class renewal survey, a vessel's machinery may be reviewed on a continuous survey cycle, under which the machinery would be surveyed over a five-year period. See "Item 4. Information on the Company—B. Business Overview—Inspection by Classification Societies" for more information regarding annual surveys, intermediate surveys and special surveys. Bureau Veritas, Lloyd's Register, DNV-GL & RINA and American Bureau of Shipping, the classification societies for the vessels in our fleet, may approve and carry out in-water inspections of the underwater parts of our vessels once every three to five years, in lieu of drydocking inspections. In-water inspections are typically less expensive than drydocking inspections and we intend to conduct in-water inspections when that option is available to us.

If a vessel does not maintain its "in class" certification or fails any annual survey, intermediate survey or special survey, port authorities may detain the vessel, refuse her entry into port or refuse to allow her to trade resulting in the vessel being unable to trade and therefore rendering her unemployable. In the event that a vessel becomes unemployable, we could also be in violation of provisions in our charters, insurance coverage, covenants in our loan agreements and ship registration requirements and our revenues and future profitability would be negatively affected.

***We are subject to regulation and liability under environmental laws that could require significant expenditures and affect our cash flows and net income.***

Our business and the operation of our containerships are materially affected by environmental regulation in the form of international conventions, national, state and local laws and regulations in force in the jurisdictions in which our containerships operate, as well as in the countries of their registration, including those governing the management and disposal of hazardous substances and wastes, the cleanup of oil spills and other contamination, air emissions, water discharges, ballast water management and vessel recycling. Because such conventions, laws and regulations are often revised, we cannot predict the ultimate cost or effect of complying with such requirements or the effect of such compliance on the current market value, resale price or useful life of our containerships. Additional conventions, laws and regulations may be adopted that could limit our ability to do business or increase the cost of our doing business, which may negatively impact our business, results of operations and financial condition.

Environmental requirements may also require a reduction in cargo capacity, ship modifications or operational changes or restrictions, lead to decreased availability of insurance coverage for environmental matters or result in substantial penalties, fines or other sanctions, including the denial of access to certain jurisdictional waters or ports or detention in certain ports. Under local, national and foreign laws, as well as international treaties and conventions, we could incur material liabilities, including cleanup obligations and natural resource damages, if there is a release of petroleum or other hazardous materials from our vessels or otherwise in connection with our operations. We could also become subject to personal injury or property damage claims relating to the release of hazardous materials associated with our operations, even if not carried as cargo.

In addition, in complying with existing environmental laws and regulations and those that may be adopted, we may incur significant costs in meeting new maintenance and inspection requirements and new restrictions on air emissions from our containerships, in managing ballast water, in developing contingency arrangements for potential spills and in obtaining insurance coverage. Government regulation of vessels, particularly in the areas of safety, security and environmental requirements, can be expected to become stricter in the future and require us to incur significant capital expenditures on our vessels to keep them in compliance, or even to scrap or sell certain vessels altogether. Substantial violations of applicable requirements or a catastrophic release of bunker fuel from one or more of our containerships could harm our business, results of operations and financial condition. For additional information about the environmental regulations to which we are subject, please read “Item 4. Information on the Company—B. Business Overview—Environmental and Other Regulations.”

***Increased inspection procedures, tighter import and export controls and new security regulations could increase costs and cause disruption of our containership business.***

International container shipping is subject to security and customs inspection and related procedures in countries of origin, destination, and certain trans-shipment points. These inspection procedures can result in cargo seizure, delays in the loading, offloading, trans-shipment, or delivery of containers, and the levying of customs duties, fines and other penalties against us.

Since the events of September 11, 2001, U.S. authorities have substantially increased container inspections. Government investment in non-intrusive container scanning technology has grown and there is interest in electronic monitoring technology, including so-called “e-seals” and “smart” containers, which would enable remote, centralized monitoring of containers during shipment to identify tampering with or opening of the containers, along with potentially measuring other characteristics such as temperature, air pressure, motion, chemicals, biological agents and radiation. Also, as a response to the events of September 11, 2001, additional vessel security requirements have been imposed, including the installation of security alert and automatic identification systems on board vessels.

It is unclear what additional changes, if any, to the existing inspection and security procedures may ultimately be proposed or implemented in the future, or how any such changes will affect the industry. It is possible that such changes could impose additional financial and legal obligations on us. Furthermore, changes to inspection and security procedures could also impose additional costs and obligations on our customers and may, in certain cases, render the shipment of certain types of goods in containers uneconomical or impractical. Any such changes or developments could have a material adverse effect on our business, results of operations and financial condition and our ability to pay dividends to our shareholders.

The operation of our vessels is also affected by the requirements set forth in the International Ship and Port Facilities Security Code, or the ISPS Code. The ISPS Code requires vessels to develop and maintain a ship security plan that provides security measures to address potential threats to the security of ships or port facilities. Although each of our containerships is ISPS Code certified, any failure to comply with the ISPS Code or maintain such certifications may subject us to increased liability and may result in denial of access to, or detention in, certain ports. Furthermore, compliance with the ISPS Code requires us to incur certain costs. Although such costs have not been material to date, if new or more stringent regulations relating to the ISPS Code are adopted by the International Maritime Organisation, the United Nations agency for maritime safety and the prevention of pollution by vessels (the “IMO”) and the flag states, these requirements could require significant additional capital expenditures or otherwise increase the costs of our operations.

***Sulfur regulations to reduce air pollution from ships are likely to require retrofitting of vessels and may cause us to incur significant costs.***

In October 2016, the IMO set January 1, 2020 as the implementation date for vessels to comply with its sulfur emission limit of 0.5% m/m. These regulations may be complied with by (i) using low sulfur fuel which is at a higher cost than standard heavy fuel oil, (ii) installing scrubbers for cleaning of exhaust gas; or (iii) by retrofitting vessels to be powered by, for example, liquefied natural gas, which is not likely to be a viable option for smaller older vessels due to the high costs involved. The higher cost of low sulfur fuel is, in the first instance, borne by the vessel operator, our charterer, whereas the installation of scrubbers or retrofitting for an alternative fuel source, would in the first instance be borne by us as the vessel owner. Costs of compliance with these regulatory changes may be significant and may have a material adverse effect on our future performance, results of operations, cash flows and financial position.

***Regulations relating to ballast water discharge that have been in effect since September 2019 may adversely affect our revenues and profitability.***

The IMO has imposed updated guidelines for ballast water management systems specifying the maximum amount of viable organisms allowed to be discharged from a vessel's ballast water. Existing vessels constructed before September 8, 2017, must comply with updated standards on or after September 8, 2019, with the exact date depending on the date of the next International Oil Pollution Prevention ("IOPP") renewal survey. In some cases, such as where vessels are due to trade to U.S. ports, the implementation date may be before the IMO deadline. For most vessels, compliance with the standard will involve installing on-board systems to treat ballast water to eliminate unwanted organisms. Ships constructed on or after September 8, 2017 have been obligated to comply with the standards on or after September 8, 2017. We currently have 15 vessels which have a ballast water management system fitted and 30 vessels that do not. The costs of compliance may be substantial and adversely affect our revenues and profitability. Furthermore, United States regulations are currently changing. Although the 2013 Vessel General Permit ("VGP") program and U.S. National Invasive Species Act ("NISA") are currently in effect to regulate ballast discharge, exchange and installation, the Vessel Incidental Discharge Act ("VIDA"), which was signed into law on December 4, 2018, requires that by December 2020, the U.S. Environmental Protection Agency ("EPA") is required to develop national standards of performance for approximately 30 discharges. In most cases, the future standards will be at least as stringent as the existing EPA 2013 VGP requirements and will be technology-based. Two years thereafter (2022), the U.S. Coast Guard is required to develop corresponding implementation, compliance, and enforcement regulations. These may include requirements governing the design, construction, testing, approval, installation, and use of devices to achieve the EPA national standards of performance.

The new regulations could require the installation of new equipment, which may cause us to incur substantial costs.

***Risks Relating to our Common Stock and Depositary Shares Representing Series B Preferred Shares***

***We cannot assure you if and when we will pay dividends on our common shares.***

We are not currently paying dividends on our common shares. Subject to the limitations contained in the agreements governing our indebtedness, we may resume the distribution of a portion of our cash flow to our shareholders, while retaining the remaining cash flow for costs such as drydockings, reinvestment in our business, funding vessel or fleet acquisitions, making debt repayments and for other purposes, as determined by our board of directors. The timing and amount of any dividends declared will depend on, among other things (a) our results of operations, financial condition, cash flow and cash requirements, (b) our liquidity, including our ability to obtain debt and equity financing on acceptable terms as contemplated by our vessel acquisition strategy, (c) restrictive covenants in our existing and future debt instruments and (d) provisions of Marshall Islands law. The declaration and payment of dividends is also subject at all times to the discretion of our board of directors.



The international containership and containership leasing industry is highly volatile, and we cannot predict with certainty the amount of cash, if any, that will be available for distribution as dividends in any period. Also, there may be a high degree of variability from period to period in the amount of cash, if any, that is available for the payment of dividends. The amount of cash we generate from operations and the actual amount of cash we will have available for dividends in each quarter will vary based upon, among other things:

- the charter-hire payments we obtain from our charters as well as the rates obtained upon the expiration of our existing charters;
- acquisition of additional vessels;
- the timing of scheduled drydockings;
- the timing of interest payments, scheduled debt amortization payments and other payments that might be due under our debt facilities;
- delays in the delivery of newbuilding vessels, if any, and the beginning of payments under charters relating to those vessels;
- the level of our operating costs, such as the costs of crews, lubricants and insurance;
- the number of unscheduled off-hire days for our fleet and the timing of, and number of days required for, scheduled dry-docking of our containerships;
- any idle time after one charter expires until a new charter is agreed or the vessel is disposed of, should a new charter not be agreed;
- unexpected repairs to, or required expenditures on, vessels or dry-docking costs in excess of those anticipated;
- the loss of a vessel;
- prevailing global and regional economic and political conditions;
- changes in interest rates;
- the effect of governmental regulations and maritime self-regulatory organization standards on the conduct of our business;
- changes in the basis of taxation of our activities in various jurisdictions;
- modification or revocation of our dividend policy by our board of directors; and
- the amount of any cash reserves established by our board of directors.

The amount of cash we generate from our operations may differ materially from our net income or loss for the period, which will be affected by non-cash items. We may incur other expenses or liabilities that could reduce or eliminate the cash available for distribution as dividends.

In addition, Marshall Islands law generally prohibits the payment of dividends other than from surplus (retained earnings and the excess of consideration received from the sale of shares above the par value of the shares) or if there is no surplus, from the net profits for the current and prior fiscal years, or while a company is insolvent or if it would be rendered insolvent by the payment of such a dividend. We may not have sufficient surplus or net profits in the future to pay dividends, and our subsidiaries may not have sufficient funds, surplus or net profits to make distributions to us. As a result of these and other factors, we may not be able to pay dividends during periods when we record losses and may not pay dividends during periods when we record net income. We can give no assurance that dividends will be paid in the future.

***There may be a substantial number of our common shares available for sale in the future that may adversely affect the market price of our Class A common shares.***

On the closing of the Poseidon Transaction, we issued 3,005,603 Class A common shares and 250,000 Series C Preferred Shares, which are convertible into 12,955,187 Class A common shares upon the occurrence of certain events. Further, in connection with the Poseidon Transaction, pursuant to an Amended and Restated Registration Rights Agreement, we registered for resale all Class A common shares, including those issuable upon conversion of the Series C Preferred Shares, held by affiliates of Kelso, CMA CGM, George Giouroukos (our Executive Chairman) through a holding company, Michael S. Gross (our former Chairman and a director) and MAAS Capital Investments B.V. (“Maas Capital”) as of the closing of the Poseidon Transaction. In September 2019, Kelso agreed to convert its Series C Preferred Shares upon our repayment of our 2022 Notes. The registration and availability of such a significant number of securities for trading in the public market may have a material adverse effect on the market price of our Class A common shares.

***The price of our securities may be volatile.***

The price of our common shares and Depositary Shares representing Series B Preferred Shares may be volatile and may fluctuate due to factors such as:

- actual or anticipated fluctuations in our quarterly revenues and results of operations and those of publicly held containership owners or operators;
- market conditions in the industry;
- perceived counterparty risk;
- shortfalls in our operating results from levels forecasted by securities analysts;
- announcements concerning us or other containership owners or operators;
- mergers and strategic alliances in the shipping industry;
- changes in government regulation including taxation; and
- the general state of the securities markets.

The international containership industry has been highly unpredictable and volatile. The market for common shares and Depositary Shares representing Series B Preferred Shares in companies operating in this industry may be equally volatile.

***We have anti-takeover provisions in our organizational documents that may discourage a change of control.***

Certain provisions of our articles of incorporation and bylaws may have an anti-takeover effect and may delay, defer or prevent a tender offer or takeover attempt that a shareholder might consider in its best interest, including those attempts that might result in a premium over the market price for the shares held by shareholders.

Certain of these provisions provide for:

- a classified board of directors with staggered three-year terms;

- restrictions on business combinations with certain interested shareholders;
- directors only to be removed for cause and only with the affirmative vote of holders of at least a majority of the common shares entitled to vote in the election of directors;
- advance notice for nominations of directors by shareholders and for shareholders to include matters to be considered at annual meetings; and
- a limited ability for shareholders to call special shareholder meetings.

These anti-takeover provisions could make it more difficult for a third party to acquire us, even if the third party's offer may be considered beneficial by many shareholders. As a result, shareholders may be limited in their ability to obtain a premium for their shares.

***Our management is required to devote substantial time to complying with public company regulations.***

As a public company, we incur significant legal, accounting and other expenses. In addition, the Sarbanes-Oxley Act of 2002 ("Sarbanes-Oxley") as well as rules subsequently adopted by the SEC and the New York Stock Exchange ("NYSE"), including the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, have imposed various requirements on public companies, including changes in corporate governance practices. Our directors, management and other personnel devote a substantial amount of time to comply with these requirements. Moreover, these rules and regulations relating to public companies increase our legal and financial compliance costs and make some activities more time-consuming and costly.

Sarbanes-Oxley requires, among other things, that we maintain and periodically evaluate our internal control over financial reporting and disclosure controls and procedures. In particular, under Section 404 of the Sarbanes-Oxley Act of 2002, we are required to include in each of our annual reports on Form 20-F a report containing our management's assessment of the effectiveness of our internal control over financial reporting and, if we are an accelerated filer or a large accelerated filer, a related attestation of our independent registered public accounting firm. While we did not identify any material weaknesses or significant deficiencies in our internal controls under the current assessment, we cannot be certain at this time that our internal controls will be considered effective in future assessments and that our independent registered public accounting firm would reach a similar conclusion. Therefore, we can give no assurances that our internal control over financial reporting will satisfy regulatory requirements in the future.

***We are a "foreign private issuer" under the NYSE rules, and as such we are entitled to exemption from certain NYSE corporate governance standards, and you may not have the same protections afforded to shareholders of companies that are subject to all of the NYSE corporate governance requirements.***

We are a "foreign private issuer" under the securities laws of the United States and the rules of the NYSE. Under the securities laws of the United States, "foreign private issuers" are subject to different disclosure requirements than U.S. domiciled registrants, as well as different financial reporting requirements. Under the NYSE rules, a "foreign private issuer" is subject to less stringent corporate governance requirements. Subject to certain exceptions, the rules of the NYSE permit a "foreign private issuer" to follow its home country practice in lieu of the listing requirements of the NYSE.

Accordingly, you may not have the same protections afforded to shareholders of companies that are subject to all of the NYSE corporate governance requirements.

***Future sales of our common stock could cause the market price of our common stock to decline.***

Sales of a substantial number of shares of our common stock in the public market, or the perception that these sales could occur, may depress the market price for our common stock. These sales could also impair our ability to raise additional capital through the sale of our equity securities in the future.

Subject to the rules of the NYSE, in the future, we may issue additional shares of common stock, and other equity securities of equal or senior rank, without shareholder approval, in a number of circumstances. The issuance by us of additional shares of common stock or other equity securities of equal or senior rank would have the following effects:

- our existing shareholders' proportionate ownership interest in us may decrease;
- the dividend amount payable per share on our common stock may be lower;
- the relative voting strength of each previously outstanding share may be diminished; and
- the market price of our common stock may decline.

Our shareholders also may elect to sell large numbers of shares held by them from time to time. The number of shares of common stock available for sale in the public market will be limited by restrictions applicable under securities laws, and agreements that we and our executive officers, directors and existing shareholders may enter into with the underwriters at the time of an offering. Subject to certain exceptions, these agreements generally restrict us and our executive officers, directors and existing shareholders from directly or indirectly offering, selling, pledging, hedging or otherwise disposing of our equity securities or any security that is convertible into or exercisable or exchangeable for our equity securities and from engaging in certain other transactions relating to such securities for a period of 180 days after the date of an offering prospectus without the prior written consent of the underwriter(s).

***We may not have sufficient cash from our operations to enable us to pay dividends on or to redeem our Series B Preferred Shares, and accordingly the Depositary Shares, as the case may be.***

We pay quarterly dividends on the Series B Preferred Shares, and accordingly the Depositary Shares, only from funds legally available for such purpose when, as and if declared by our board of directors. We may not have sufficient cash available each quarter to pay dividends. In addition, if our board of directors does not authorize and declare a dividend for any dividend period prior to the relevant dividend payment date, holders of the Series B Preferred Shares and accordingly the Depositary Shares would not be entitled to receive a dividend for that dividend period. However, any unpaid dividends will accumulate. In addition, we have the option to redeem the Series B Preferred Shares, and accordingly the Depositary Shares, although we may have insufficient cash available to do so or may otherwise elect not to do so.

The amount of cash we can use to pay dividends or redeem our Series B Preferred Shares and the Depositary Shares depends upon the amount of cash we generate from our operations, which may fluctuate significantly, and other factors, including the following:

- changes in our operating cash flow, capital expenditure requirements, working capital requirements and other cash needs;
- the amount of any cash reserves established by our board of directors;
- restrictions under Marshall Islands law as described below;
- restrictions under our credit facilities and other instruments and agreements governing our existing and future debt as described below; and
- our overall financial and operating performance, which, in turn, is subject to prevailing economic and competitive conditions and to the risks associated with the shipping industry and the other factors (see “—Risks Related to our Business” above), many of which are beyond our control.

The amount of cash we generate from our operations may differ materially from our net income or loss for the period, which will be affected by noncash items, and our board of directors in its discretion may elect not to declare any dividends. We may incur other expenses or liabilities that could reduce or eliminate the cash available for distribution as dividends. As a result of these and the other factors mentioned above, we may pay dividends during periods when we record losses and may not pay dividends during periods when we record net income.

***Our ability to pay dividends on and to redeem our Series B Preferred Shares is limited by the requirements of Marshall Islands law and by our contractual obligations.***

Marshall Islands law provides that we may pay dividends on and redeem the Series B Preferred Shares only to the extent that assets are legally available for such purposes. Legally available assets generally are limited to our surplus, which essentially represents our retained earnings and the excess of consideration received by us for the sale of shares above the par value of the shares. In addition, under Marshall Islands law we may not pay dividends on or redeem Series B Preferred Shares if we are insolvent or would be rendered insolvent by the payment of such a dividend or the making of such redemption.

Further, the terms of our credit facilities may prohibit us from declaring or paying any dividends or distributions on preferred stock, including the Series B Preferred Shares, or redeeming, purchasing, acquiring or making a liquidation payment on preferred stock in certain circumstances. The indenture governing our 2022 Notes, as well as the related Citi Credit Facility (as defined herein), prohibit us from redeeming shares, including the Series B Preferred Shares, and accordingly, the Depositary Shares representing Series B Preferred Shares.

## **Risks Related to Tax Matters**

***Our operating income could fail to qualify for an exemption from U.S. federal income taxation, which would reduce our cash flow.***

We do not expect to be engaged in a U.S. trade or business. In the case of a foreign corporation that is not so engaged, the Internal Revenue Code of 1986, as amended (the “Code”), imposes a 4% U.S. federal income tax (without allowance of any deductions) on 50% of the corporation’s gross transportation income that is attributable to transportation that begins or ends, but that does not both begin and end, in the United States, unless the corporation qualifies for the exemption provided in Section 883 of the Code or an applicable income tax treaty. The imposition of this tax could have a negative effect on our business, financial condition and results of operations. Under the charter agreements, the charterer has agreed to provide reimbursement for any such taxes as the charterer determines where each vessel trades.

We will qualify for the exemption under Section 883 if, among other things, our stock is treated as primarily and regularly traded on an established securities market in the United States. However, under the Treasury regulations, a class of stock will not be treated as primarily and regularly traded on an established securities market if, during more than half the number of days during the taxable year, one or more shareholders who actually or constructively own at least 5% of the vote and value of the outstanding shares of such class of stock (“5% Shareholders”), own, in the aggregate, 50% or more of the vote and value of the outstanding shares of such class of stock, unless a sufficient amount of stock is owned by 5% Shareholders that are considered to be “qualified shareholders” to preclude non-qualifying 5% Shareholders from owning 50% or more of the total value of the stock held by the 5% Shareholders group.

Generally, a 5% Shareholder is a qualified 5% Shareholder if the 5% Shareholder is an individual who is a resident of a qualified foreign country, the government of a qualified foreign country, a foreign corporation organized in a qualified foreign country that meets the “publicly-traded” test discussed herein, a non-profit organization organized in a qualified foreign country or an individual beneficiary (resident in a qualified foreign country) of a pension plan administered in or by a qualified foreign country. Generally, a foreign country is a qualified foreign country if it grants an equivalent exemption from tax to corporations organized in the United States.

Based on information that we have as to our shareholders and other matters, we believe that we qualified for the Section 883 exemption for 2009 through 2018 under the “publicly-traded” test. We do not believe that we were able to satisfy the “publicly-traded” test for 2019 and, consequently, we were not exempt from U.S. federal income taxation on our U.S. source gross transportation income. Whether we may satisfy the “publicly-traded” test for 2020 and future taxable years depends on factors that are outside of our control, and we cannot provide any assurances that we will or will not satisfy the “publicly-traded” test to claim exemption from U.S. taxation for 2020 or future taxable years. See Item “10. Additional Information—E. Taxation—Taxation of Global Ship Lease—The Section 883 exemption” for a more comprehensive discussion of the U.S. federal income tax rules related to Section 883.

Under our charter agreements, our charterers have agreed to reimburse any such taxes. However, if our charterers do not provide such reimbursement, this will have a negative impact on our financial condition and results of operations.

***We could be taxed as a U.S. corporation.***

Section 7874 of the Code provides that a foreign corporation which acquires substantially all the properties of a U.S. corporation is generally treated as though it were a U.S. corporation for U.S. federal income tax purposes if, after the acquisition, at least 80% (by vote or value) of the stock of the foreign corporation is owned by former shareholders of the U.S. corporation by reason of owning stock in the U.S. corporation. Although we believe that this rule should not apply to us in the context of the Marathon Merger, there is no definitive legal authority applying the principles of Section 7874 of the Code and therefore there can be no assurance that the Internal Revenue Service (the "IRS") would not seek to challenge such position, or that such a challenge would not be successful. If we were to be treated as a U.S. corporation, our net income would be subject to U.S. federal corporate income tax, currently imposed at a rate of 21%. The imposition of this tax would likely have a negative effect on our business, financial condition and results of operations.

***Certain adverse U.S. federal income tax consequences could arise for U.S. holders.***

Shareholders of a "passive foreign investment company," or PFIC, that are U.S. persons within the meaning of the Code ("U.S. shareholders") are subject to a disadvantageous U.S. federal income tax regime with respect to the distributions they receive from a PFIC and the gain, if any, they derive from the sale or other disposition of their shares in a PFIC (as discussed below). In addition, dividends paid by a PFIC do not constitute qualified dividend income and, hence, are ineligible for the preferential rate of tax that applies to qualified dividend income.

A foreign corporation is treated as a PFIC if either (1) 75% or more of its gross income for any taxable year consists of certain types of "passive income" or (2) 50% or more of the average value of the corporation's assets produce or are held for the production of those types of "passive income." For purposes of these tests, "passive income" includes dividends, interest and gains from the sale or exchange of investment property and rents and royalties other than rents and royalties which are received from unrelated parties in connection with the active conduct of a trade or business; income derived from the performance of services does not, however, constitute "passive income."

Based on the projected composition of our income and valuation of our assets, we do not expect that we will constitute a PFIC with respect to the current or any future taxable year, although there can be no assurance in this regard. Our expectation is based principally on the position that, for purposes of determining whether we are a PFIC, the majority, if not all, of the gross income we derive from our chartering activities should constitute services income rather than rental income.

In this regard, we have been advised by our tax advisor that the income from our chartering activities is, more likely than not, services income. There is, however, no direct legal authority under the PFIC rules addressing our current and projected future operations or supporting our position. Accordingly, no assurance can be given that the IRS will not assert that we are a PFIC with respect to any taxable year, nor that a court would not uphold any such assertion and we have not obtained advice from our tax advisor on whether we are a PFIC.

Further, in a case not concerning PFICs, *Tidewater Inc. v. U.S.*, 2009-1 USTC ¶ 50,337, the Fifth Circuit held that a vessel time charter at issue generated rental, rather than services, income. However, the court's ruling was contrary to the position of the IRS that the time charter income should be treated as services income. Subsequently, the IRS has stated that it disagrees with and will not acquiesce to the rental versus services distinction in the *Tidewater* decision, and in its discussion stated that the time charters at issue in *Tidewater* would be treated as producing services income for PFIC purposes. The IRS's statement with respect to *Tidewater* cannot be relied upon or otherwise cited as precedent by taxpayers. Further, the facts in *Tidewater* are not directly analogous to our facts. No assurance can be given that the IRS or a court of law would accept our position, and there is a risk that the IRS or a court of law could determine that the company is a PFIC.

If the IRS were to determine that we are or have been a PFIC for any taxable year, our U.S. shareholders will face adverse U.S. tax consequences. Distributions paid by us with respect to our shares will not constitute qualified dividend income if we were a PFIC in the year we pay a dividend or in the prior taxable year and, hence, will not be eligible for the preferential rate of tax that applies to qualified dividend income. In addition, our U.S. shareholders (other than shareholders who have made a "qualified electing fund" or "mark-to-market" election) will be subject to special rules relating to the taxation of "excess distributions"—with excess distributions being defined to include certain distributions we may make on our Class A common shares as well as gain recognized by a U.S. holder on a disposition of our Class A common shares. In general, the amount of any "excess distribution" will be allocated ratably to each day of the U.S. holder's holding period for our Class A common shares. The amount allocated to the current year and any taxable year prior to the first taxable year for which we were a PFIC will be included in the U.S. holder's gross income for the current year as ordinary income. With respect to amounts allocated to prior years for which we were a PFIC, the tax imposed for the current year will be increased by the "deferred tax amount," which is an amount calculated with respect to each prior year by multiplying the amount allocated to such year by the highest rate of tax in effect for such year, together with an interest charge as though the amounts of tax were overdue. See Item 10.E. "Additional Information—Taxation —Tax Consequences of Holding Class A common shares—Consequences of possible passive foreign investment company classification" for a more comprehensive discussion of the U.S. federal income tax consequences to U.S. shareholders if we were treated as a PFIC (including those applicable to U.S. shareholders who make a qualified electing fund or mark-to-market election).

***We may be subject to taxation on all or part of our income in the United Kingdom, which could have a material adverse effect on our results of operations.***

If we or our vessel owning subsidiaries were considered to be a resident of the United Kingdom (or "UK") or to have a permanent establishment in the United Kingdom, all or a part of our profits could be subject to UK corporate tax, which had a maximum rate of 24%, 23% and 21% for the years ended March 31, 2013, 2014 and 2015, respectively, and 20% thereafter. We and our vessel owning subsidiaries are strategically managed and controlled from outside the United Kingdom and have restricted activities within the United Kingdom. Certain intra-group services are provided from within the United Kingdom and UK corporate tax will be payable on the arms-length price for those services. The appropriate arms-length price in these circumstances is likely to be a matter of negotiation with the UK taxing authorities.

We do not believe that we or our vessel owning subsidiaries are residents of the United Kingdom, or that we or our vessel owning subsidiaries have permanent establishments in the United Kingdom. However, because some administrative and executive services are provided to us or our vessel owning subsidiaries by a subsidiary company located in the United Kingdom and certain of our directors reside in the United Kingdom, and because UK statutory and case law fail to definitively identify the activities that constitute a trade being carried on in the United Kingdom through a permanent establishment, the UK taxing authorities may contend that we or our vessel owning subsidiaries are subject to UK corporate tax on all of our income, or on a greater portion of our income than we currently expect to be taxed. If the UK taxing authorities made such a contention, we could incur substantial legal costs defending our position, and, if we were unsuccessful in our defense, our results of operations would be materially adversely affected.

*We may be subject to taxes which will reduce our cash flow.*

We and our vessel owning subsidiaries are subject to tax in certain jurisdictions in which we are organized, own assets or have operations, which reduces the amount of our cash available for distribution. In computing our tax obligations in these jurisdictions, we are required to take various tax accounting and reporting positions on matters that are not entirely free from doubt and for which we have not received rulings from the governing authorities. We cannot assure you that upon review of these positions, the applicable authorities will agree with our positions. A successful challenge by a tax authority, or a change in law in a jurisdiction in which we operate (including Cyprus and Hong Kong, where a number of our vessel owning subsidiaries are entered in the local tonnage tax regime), could result in additional tax imposed on us, further reducing the cash available for distribution.

#### **Item 4. Information on the Company**

##### **A. History and Development of the Company**

Our legal and commercial name is Global Ship Lease, Inc. We are a Republic of the Marshall Islands corporation that owns a fleet of mid-sized and smaller containerships which we charter out under fixed-rate charters to reputable container shipping companies. The mailing address of our principal executive office is c/o Global Ship Lease Services Limited, 25 Wilton Road, London SW1V 1LW, United Kingdom, and our telephone number at that address is +44 (0) 20 3998 0063. Our agent in the United States is Puglisi & Associates, 850 Library Avenue, Suite 204, Newark, Delaware 19711. The SEC maintains an Internet site that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC. The address of the SEC's Internet site is [www.sec.gov](http://www.sec.gov). Our website address is [www.globalshiplease.com](http://www.globalshiplease.com). None of the information contained on these websites is incorporated herein by reference or forms a part of this Annual Report. From time to time, we may use our website and social media outlets as channels of distribution of material company information.

We were formed in 2007 to purchase and charter back 17 containerships then owned or to be purchased by CMA CGM, at that time the third largest containership operator in the world by number of vessels. On August 14, 2008, we merged indirectly with Marathon Acquisition Corp. ("Marathon"), a company then listed on the American Stock Exchange. Under the merger agreement, Marathon, a U.S. corporation, first merged with its wholly-owned Marshall Islands subsidiary, GSL Holdings, Inc. ("Holdings"), with Holdings continuing as the surviving company. Global Ship Lease, Inc., at that time a subsidiary of CMA CGM, then merged with Holdings, with Holdings again being the surviving company. Holdings was renamed Global Ship Lease, Inc. and became listed on the NYSE on August 15, 2008.

On November 15, 2018, we completed the Poseidon Transaction, a transformative transaction by which we acquired 20 containerships, one of which was contracted to be sold. On the closing of the Poseidon Transaction, we issued as consideration 3,005,603 Class A common shares and 250,000 Series C Preferred Shares, which are convertible to an aggregate of 12,955,187 Class A common shares in certain circumstances, and assumed the debt of Poseidon Containers, which amounted to \$509.7 million as of November 15, 2018.

On January 2, 2019, as a consequence of the completion of the Poseidon Transaction, all of our issued and outstanding Class B common shares converted one-for-one into Class A common shares. On March 25, 2019, we effected a one-for-eight reverse stock split of our Class A common shares, which our shareholders authorized at our special meeting of shareholders held on March 20, 2019. There was no change to the trading symbol, number of authorized shares, or par value of our Class A common shares in connection with the reverse stock split. All share and per share amounts disclosed in this Annual Report give effect to the reverse stock split retroactively, for all periods presented.

As of March 31, 2020, we owned 45 mid-sized and smaller containerships, of which nine are new-design, high-specification, fuel-efficient, and wide-beam.



## **Class A Common Shares**

On October 1, 2019, we closed our upsized fully underwritten public offering of 7,613,788 Class A common shares, at a public offering price of \$7.25 per share, for gross proceeds of approximately \$55.2 million, (the “October 2019 Equity Offering”). This includes the exercise in full by the underwriter of its option to purchase additional shares. The net proceeds, after underwriting discounts and commissions and expenses, were approximately \$50.7 million. Certain members of our executive management purchased an aggregate of 168,968 Class A common shares in the October 2019 Equity Offering at the public offering price, for which the underwriter did not receive any discount or commissions.

## **2024 Notes**

On November 19, 2019, we issued \$27.5 million aggregate principal amount of our 8.00% Senior Unsecured Notes due 2024 (the “2024 Notes”) in an underwritten public offering, and on November 27, 2019, we issued an additional \$4.125 million aggregate principal amount of 2024 Notes pursuant to the underwriters’ exercise of their option to purchase additional 2024 Notes, resulting in aggregate net proceeds to us of approximately \$29.6 million, after the payment of underwriting discounts and commissions and offering expenses, (the “November 2019 Notes Offering”). Certain members of our executive management purchased \$300,000 aggregate principal amount of 2024 Notes in the November 2019 Notes Offering, for which the underwriters did not receive any discount or commissions.

On November 27, 2019, we launched an “at the market” offering program (the “2024 Notes ATM Program”), pursuant to which we may sell, from time to time, up to an additional \$68.0 million of 2024 Notes. As of March 31, 2020, we have issued and sold approximately \$27.3 million aggregate principal amount of 2024 Notes under the 2024 Notes ATM Program, resulting in net proceeds to us of approximately \$26.6 million.

## **Depository Shares ATM Program**

On December 10, 2019, we launched an “at the market” offering program (the “Depository Shares ATM Program”), pursuant to which we may sell, from time to time, up to \$75.0 million of our depository shares (the “Depository Shares”), each of which represents 1/100th of one share of our 8.75% Series B Cumulative Redeemable Perpetual Preferred Shares, par value \$0.01 per share, with a liquidation preference of \$2,500.00 per share (equivalent to \$25.00 per Depository Share). As of March 31, 2020, we have issued and sold approximately 0.2 million of our Depository Shares under the Depository Shares ATM Program, resulting in net proceeds to us of approximately \$5.1 million.

## **Recent and Other Developments**

### *Optional Partial Redemption of 2022 Notes*

On February 10, 2020, we used the net proceeds from our offering of 2024 Notes and cash on hand to redeem \$46.0 million aggregate principal amount of our 2022 Notes. Following the optional partial redemption, approximately \$276.7 million aggregate principal amount of 2022 Notes remains outstanding.

### *Refinancing*

On February 13, 2020, we refinanced our DVB Credit Facility which had a maturity date in December 2020, through the utilization of the \$38.0 million second tranche of our Syndicated Senior Facility (as described herein), as well as an additional new facility of \$9.0 million with an international lender. The second tranche of the Syndicated Senior Facility is secured by the vessel Mary, and the new \$9.0 million facility is secured by the vessels Maira, Nikolas and Newyorker.

In March 2020, pending disposal, the Company agreed to a short-term charter to commence April 4, 2020, for GSL Matisse, at a confidential rate.

### COVID-19 Outbreak

The outbreak of the novel coronavirus (COVID-19) that originated in China in December 2019 and that, as of the date of this report, has spread to most developed nations of the world has resulted in the implementation of numerous actions taken by governments and governmental agencies in an attempt to control or mitigate the spread of the virus. These measures have resulted in a significant reduction in global economic activity and uncertainty in the global financial markets. When these measures and the resulting economic impact will end and what the long-term impact of such measures is on the global economy cannot be known at this time. A significant reduction in manufacturing and other economic activities has and will continue to have a material and adverse impact on the global production and supply of the goods that our customers transport on our vessels. The scale and duration, as well as the impact, of these factors, while currently uncertain, could have a material and adverse impact on our earnings, cash flows and financial condition for 2020. Accordingly, an estimate of the impact cannot be made at this time.

## B. Business Overview

### Our Fleet

The table below provides certain information about our fleet of 45 containerships as of March 31, 2020:

Vessel Name	Capacity in TEUs	Lightweight (tons)	Year Built	Charterer	Earliest Charter Expiry Date	Latest Charter Expiry Date	Daily Charter Rate \$
CMA CGM Thalassa	11,040	38,577	2008	CMA CGM	4Q25	1Q26	47,200
UASC Al Khor <sup>(1)</sup>	9,115	31,764	2015	Hapag-Lloyd	1Q22	2Q22	34,000
Anthea Y <sup>(1)</sup>	9,115	31,890	2015	COSCO	2Q20	3Q20	39,200
Maira XL <sup>(1)</sup>	9,115	31,820	2015	COSCO	2Q20	3Q20	39,200
MSC Tianjin	8,603	34,325	2005	MSC	2Q24 <sup>(2)</sup>	3Q24	Confidential
MSC Qingdao	8,603	34,305	2004	MSC	2Q24 <sup>(2)</sup>	3Q24	Confidential
GSL Ningbo	8,603	34,340	2004	Maersk	3Q20	4Q20	18,000
GSL Eleni	7,847	29,261	2004	Maersk	3Q24	4Q24 <sup>(3)</sup>	Confidential
GSL Kalliopi	7,847	29,105	2004	Maersk	4Q22	4Q24 <sup>(3)</sup>	Confidential
GSL Grania	7,847	29,190	2004	Maersk	3Q22	4Q24 <sup>(3)</sup>	Confidential
Mary <sup>(1)</sup>	6,927	23,424	2013	CMA CGM	3Q23	4Q23	25,910
Kristina <sup>(1)</sup>	6,927	23,421	2013	CMA CGM	2Q24	3Q24	25,910
Katherine <sup>(1)</sup>	6,927	23,403	2013	CMA CGM	1Q24	2Q24	25,910
Alexandra <sup>(1)</sup>	6,927	23,348	2013	CMA CGM	1Q24	2Q24	25,910
Alexis <sup>(1)</sup>	6,882	23,919	2015	CMA CGM	1Q24	2Q24	25,910
Olivia I <sup>(1)</sup>	6,882	23,864	2015	CMA CGM	1Q24	2Q24	25,910
CMA CGM Berlioz	6,621	26,776	2001	CMA CGM	2Q21	4Q21	34,000
Agios Dimitrios	6,572	24,746	2011	MSC	4Q23	1Q24	20,000
New Purchase One	6,422	27,954	2002	Confidential	2Q20	3Q20	Confidential <sup>(4)</sup>
New Purchase Two	6,422	28,070	2002	Confidential	2Q20	4Q20	Confidential <sup>(4)</sup>
GSL Vinia	6,080	23,737	2004	Confidential	2Q24	1Q25	Confidential <sup>(5)</sup>
GSL Christel Elisabeth	6,080	23,745	2004	Confidential	2Q24	1Q25	Confidential <sup>(5)</sup>
Tasman	5,936	25,010	2000	Maersk	1Q22	3Q23 <sup>(6)</sup>	12,500 <sup>(6)</sup>
Dimitris Y	5,936	25,010	2000	ZIM	2Q21	3Q21	14,500
Ian H	5,936	25,128	2000	ZIM	1Q21	2Q21	14,500
Dolphin II	5,095	20,596	2007	Feedertech	3Q20	4Q20	12,500
Orca I	5,095	20,633	2006	Maersk	2Q20 <sup>(7)</sup>	2Q21 <sup>(7)</sup>	9,000 <sup>(7)</sup>
CMA CGM Alcazar	5,089	20,087	2007	CMA CGM	4Q20	2Q21	33,750
CMA CGM Château d'If	5,089	19,994	2007	CMA CGM	4Q20	2Q21	33,750
CMA CGM Jamaica	4,298	17,272	2006	CMA CGM	3Q22	1Q23	25,350
CMA CGM Sambhar	4,045	17,429	2006	CMA CGM	3Q22	1Q23	25,350
CMA CGM America	4,045	17,428	2006	CMA CGM	3Q22	1Q23	25,350
GSL Valerie	2,824	11,971	2005	MSC	3Q20	3Q20	9,000
Athena	2,762	13,538	2003	MSC	1Q21	1Q21	9,000
Maira	2,506	11,453	2000	MSC	3Q20	3Q20	8,250 <sup>(8)</sup>
Nikolas	2,506	11,370	2000	MSC	3Q20	3Q20	9,000
Newyorker	2,506	11,463	2001	MSC	4Q20	1Q21	9,000
GSL La Tour	2,272	11,742	2001	MSC	4Q20	4Q20	8,800
Manet	2,272	11,727	2001	COSCO	2Q20	2Q20	9,900
GSL Matisse	2,262	11,676	1999	Confidential	2Q20	2Q20	Confidential <sup>(9)</sup>
Utrillo	2,262	11,676	1999	CMA CGM	1Q20	1Q20	8,500 <sup>(10)</sup>
GSL Keta	2,207	11,731	2003	OOCL	3Q20	3Q20	9,400 <sup>(11)</sup>
GSL Julie	2,207	11,731	2002	CMA CGM	2Q20	2Q20	8,500
Kumasi	2,207	11,791	2002	CMA CGM	4Q20	1Q21	9,800
Marie Delmas	2,207	11,731	2002	CMA CGM	4Q20	1Q21	9,800

(1) Modern design, high reefer capacity fuel efficient vessels

(2) Five-year charters which commenced 2Q2019

(3) *GSL Eleni* delivered 3Q2019 and is chartered for five years; *GSL Kalliopi* (delivered 4Q2019) and *GSL Grania* (delivered 3Q2019) are chartered for three years plus two successive periods of one year at the option of the charterer.

(4) *New Purchase One* was delivered in late January 2020 and *New Purchase Two* was delivered in February 2020. The initial charter of *New Purchase One* was extended by 70 - 90 days and, if not extended further, will now expire in 2Q2020 or 3Q2020.

(5) *GSL Vinia* and *GSL Christel Elisabeth* delivered in December 2019 and are contracted on 52 – 60 months charters.

(6) 12-month extension at charterer's option callable in 2Q2022, at an increased rate of \$20,000 per day.

(7) 12-month extension at charterer's option callable in 2Q2020, at an increased rate of \$10,000 per day;

(8) Rate increases to \$9,000 per day from April 1, 2020;

(9) A new short-term charter, on confidential terms, is expected to commence on or around April 4, 2020, expiring later that month.

(10) Charter with CMA CGM expired February 16, 2020; a new short-term charter, to a different counterparty and on confidential terms, commenced February 29, 2020.

(11) Charter extended from April 9, 2020, at a confidential rate

## **Fleet Development**

As of December 31, 2019, adjusted to include the two containerships which delivered early in 2020, our fleet consisted of 45 containerships with an aggregate capacity of 248,968 TEU and a TEU-weighted average age of approximately 12.8 years.

### *Vessel Acquisitions*

In the second quarter of 2019, we entered into an agreement to acquire three 2004-built 7,847 TEU containerships (*GSL Eleni*, *GSL Kalliopi* and *GSL Grania*) for an aggregate purchase price of \$48.5 million. *GSL Eleni* had a five-year charter with Maersk Line, and *GSL Grania* and *GSL Kalliopi* each had three-year charters with Maersk Line, with two consecutive one-year extensions at the charterer's option. A portion of the purchase price has been financed by borrowings under a new senior secured debt facility totaling \$37.0 million with a maturity date in October 2024, which we refer to herein as the Hellenic Credit Facility, and the remaining amount was funded with cash on hand. The three vessels were delivered to us in the third and fourth quarters of 2019.

In the fourth quarter of 2019, we entered into an agreement to acquire two 2002-built 6,422 TEU Post-Panamax containerships for an aggregate purchase price which is approximately \$3.0 million above the vessels' scrap value. The first vessel was delivered in January 2020 and the second vessel was delivered in February 2020. The vessels have charters in place through the end of the first quarter of 2020 and the middle of the third quarter of 2020, respectively (based upon the mid-point of each charter redelivery window). We expect to partially finance the acquisition of these vessels with new debt facilities.

In the fourth quarter of 2019, we entered into agreements to acquire two 2004-built 6,080 TEU containerships, *GSL Christel Elisabeth* and *Verdi* (renamed *GSL Vinia*), for an aggregate purchase price of \$24.5 million. The vessels, which have bows optimized for fuel efficiency at lower operating speeds, have charters in place with a leading liner operator for a minimum of 52 months/maximum of 60 months. The vessels were delivered to us in the fourth quarter of 2019. A portion of the purchase price was financed by drawing down \$22.0 million under an amended and restated loan agreement with Hellenic Bank that provided for additional borrowing capacity in that amount.

## **Time Charters**

A time charter is a contract for the use of a vessel for a fixed period of time at a specified daily rate. Under a time charter, the vessel owner provides crew, lubricating oil, all maintenance and other services related to the vessel's operation, the cost of which is included in the daily rate. The vessel owner is also responsible for insuring its interests in the vessel and liabilities as owner arising from its use. The charterer is responsible for substantially all of the vessel's voyage costs, such as fuel (bunker) costs, canal fees, port expenses, extra war risk insurance costs if the vessel is deployed outside normal insurance limits and for entering areas which are specified by the insurance underwriters as being subject to additional premiums and cargo handling charges.

The initial term for a time charter commences on the vessel's delivery to the charterer. Time charter agreements may include options, in favor of the owner or the charterer, to extend the charter on pre-agreed terms. At the end of a charter, the vessel may be re-delivered by the charterer within a pre-agreed time window, to allow for operational flexibility. Charters may be extended on mutually agreed terms, or the vessel is re-delivered, in which case we would seek alternate employment with another charterer.

Our charters expire on different dates and over a period of time. We believe the staggered expirations of our charters reduces our exposure to rechartering risk and may mitigate the impact of the cyclical nature of the container shipping industry.

### ***Daily Charter Rate***

Daily charter rate refers to the gross amount per day payable by the charterer to the owner for the use of the vessel. It may be reduced by chartering commission payable to a broker or other party. Under our time charters, hire is payable to us typically every 15 days in advance and in U.S. dollars. The daily charter rate is a fixed daily amount that will remain the same for the duration of the charter, although the charter rate can be reduced in certain circumstances where there are added costs to the charterer due to vessel performance deficiencies in speed or fuel consumption. Hire can also be reduced, pro-rata for any cost savings that we may realize, if the vessel is laid up or idled at the charterers' request.

### ***Operations and Expenses***

As owners, we are required to maintain each vessel in class and in an efficient state of hull and machinery and are responsible for vessel costs such as crewing, lubricating oil, maintenance, insurance and drydocking. The charterer is responsible for the voyage costs, which includes bunker fuel, stevedoring, port charges and towage. As described below, we have entered into ship management agreements to sub-contract the day-to-day technical management of our vessels.

### ***Right of First Refusal***

Pursuant to the terms of the initial time charters with CMA CGM, of which 11 were in place at December 31, 2019, CMA CGM has a right of first refusal to purchase the vessel at matching terms to any offer of any third party if we decide to sell it during, or at the end of, the charter period. Should CMA CGM decline to exercise its right of first refusal in case of a sale during the charter period, we will be entitled to sell the vessel, subject to CMA CGM's prior approval, which shall not be unreasonably withheld. CMA CGM has the right to reject a sale of a vessel to owners whose business or shareholding is determined to be detrimental or contrary to its interest.

### ***Off-hire***

Under a time charter, when the vessel is not available for service, and is "off-hire," the charterer generally is not required to pay charter hire (unless the charterer is responsible for the circumstances giving rise to the ship's unavailability), and we are responsible for costs during any off-hire period, and possible additional costs of fuel to regain lost time. A vessel generally will be deemed to be off-hire if there is an occurrence that affects the full working condition of the vessel, including:

- any drydocking for repairs, maintenance or classification society inspection;
- any damage, defect, breakdown or deficiency of the ship's hull, machinery or equipment or repairs or maintenance thereto;
- any deficiency of the ship's master, officers and/or crew, including the failure, refusal or inability of the ship's master, officers and/or crew to perform the service immediately required, whether or not within its control;
- its deviation, other than to save life or property, which results in the charterer's lost time;
- crewing labor boycotts or certain vessel arrests; or
- our failure to maintain the vessel in compliance with the charter's requirements, such as maintaining operational certificates.

### ***Ship Management and Maintenance***

Under each of our time charters, we are responsible for the operation and technical management of each vessel, which includes crewing, provision of lubricating oils, maintaining the vessel, periodic drydocking and performing work required by regulations. The day-to-day crewing and technical management of our vessels are provided by our ship managers pursuant to the terms of ship management agreements.

### ***Termination and Withdrawal***

Generally, if a vessel is off-hire for a significant number of consecutive days, then the charterer may cancel the charter without any further consequential claims provided the vessel is free of cargo. The number of these days varies from 20 to 90 days and depends on the relevant charter agreement. Some of our charters provide that we can in some circumstances provide a substitute vessel during an anticipated extended period of off-hire.

For a number of vessels chartered to CMA CGM, if a vessel's fuel consumption exceeds a level specified in the charter over a continuous period of 30 days, and the reason is within our or the vessel's control, CMA CGM may request that we cure the deficiency. If the deficiency is not cured within 30 days after we receive notice, then CMA CGM may terminate the charter.

Generally, if either party informs the other party of a default under the charter, and the default is not rectified within 60 days of such notice, then the party giving the notice has the right to terminate the time charter with respect to that vessel.

The charter will terminate in the event of a total (actual or constructive) loss of the vessel or if the vessel is requisitioned.

We may suspend the performance of our obligations under the charter if the charterer defaults on its payment obligations under the charter.

### ***Management of Our Fleet***

Our management team supervises the day-to-day technical ship management of our vessels which is provided by Technomar, a company in which our Executive Chairman is a significant shareholder. Additionally, as of December 31, 2019, 25 vessels were commercially managed by Conchart, a company in which our Executive Chairman is the sole beneficial owner.

## **Technical Management**

As of December 31, 2019, Technomar provided day-to-day technical ship management services on all of our vessels.

Under the ship management agreements, our ship managers are responsible for all day-to-day ship management, including crewing, purchasing stores, lubricating oils and spare parts, paying wages, pensions and insurance for the crew, and organizing other vessel operating necessities, including the arrangement and management of drydocking. We reimburse the ship managers for the costs they incur on our behalf. Each ship management agreement provides that we have the right to audit the accounts of our ship manager to verify the costs incurred. The ship managers have agreed to maintain our vessels so that they remain in class with valid certification. In addition, they are responsible for our current fleet's compliance with all applicable government and other regulations, and compliance with class certifications.

We pay Technomar a daily management fee of Euro 685, payable in U.S. dollars at an agreed rate of exchange, which, in addition to the technical ship management services noted above, includes administrative support services provided to the GSL group including accounting and financial reporting, treasury management services and legal services.

The ship managers are required to use their best endeavors to provide the services specified in the ship management agreements. Pursuant to the terms of the ship management agreements, we provide customary indemnification to the manager and its employees, agents and sub-contractors.

The ship management agreements with Technomar are for a minimum term of 36 months. The management agreements may be terminated by either party by giving six months' written notice with termination to be effective no sooner than the expiry of the minimum term. A termination payment of 50% of the annual fee is payable if the management agreement is terminated by the managers and a termination fee of two times the annual fee is payable if the management agreement is terminated by the owners.

Either party may terminate a ship management agreement in the event of default, which has not been cured, an order being made or a resolution being passed for the winding up, dissolution or bankruptcy of either party, or if a receiver is appointed, or if it suspends payment, ceases to carry on business or makes a special arrangement with its creditors. The ship management agreement will also terminate if the vessel becomes a total loss, is declared as a constructive or compromised or arranged total loss, is requisitioned or sold.

## **Commercial Management**

Commercial management of vessels includes evaluating possible daily rate and duration of future employment, marketing a vessel for such employment, agreeing the detailed terms of a new charter or extension of an existing charter, administering the conduct of the charter including collection of charter-hire where necessary. Commercial management also includes negotiating sale and purchase transactions.

Global Ship Lease Services Limited ("GSL"), a wholly owned subsidiary of the company, is the commercial manager for the 18 vessels provided as security under the 2022 Notes and Citi Credit Facility. It has entered into a Commercial Advisory Services and Exclusive Brokerage Services Agreement ("EBSA") with Conchart, whereby Conchart is appointed to provide commercial advisory and exclusive brokerage services.

GSL has agreed to pay Conchart a commission of 1.25% on all monies earned under each charter fixture, other than charters with CMA CGM, and 1.00% commission on any sale and purchase transaction. No commission is payable on any charter of a vessel in the GSL Fleet to CMA CGM in place as of November 15, 2018, or extension thereof. Also, no commission is payable to Conchart in cases when not more than 30 days have elapsed between the conclusion of a new charter to CMA CGM and the end of a preexisting CMA CGM charter which was in place on November 15, 2018, provided that the relevant vessel has not been chartered to any non-CMA CGM charterer in the period between the two CMA CGM charters. For any other new charters to CMA CGM or its affiliates, the rate of commission is 0.75%. However, no commission is payable for such charters if CMA CGM or its affiliates waive their own address commission.

The EBSA has a minimum term of three years and can thereafter be terminated on six months' notice in which case a termination payment of six times the average monthly commission paid in the previous six months is due if the EBSA is terminated by Conchart and 12 times the average monthly commission paid in the previous six months is due if the EBSA is terminated by GSLS. The EBSA may also be terminated by one party on change of control in the other party. Either party may terminate the EBSA in the event of default, which has not been cured, an order being made or a resolution being passed for the winding up, dissolution or bankruptcy of either party, or if a receiver is appointed, or if it suspends payment, ceases to carry on business or makes a special arrangement with its creditors.

The remaining vessels are subject to a Commercial Management Agreement directly with Conchart, on terms substantially similar to those of the EBSA.

### **Insurance**

We arrange for insurance coverage for each of our vessels, including hull and machinery insurance, protection and indemnity insurance and war risk insurance. We are responsible for the payment of all premiums. See “—Risk of Loss and Liability Insurance.”

### **Inspection by Classification Societies**

The hull and machinery of every commercial vessel must be classed by a classification society authorized by the vessel's country of registry. The classification society certifies that a vessel is safe and seaworthy in accordance with the applicable rules and regulations of the country of registry of the vessel and the International Convention for the Safety of Life at Sea of 1974, or SOLAS Convention. Most insurance underwriters make it a condition for insurance coverage that a vessel be certified “in class” by a classification society which is a member of the International Association of Classification Societies, the IACS. All of our vessels are certified as being “in class” by all the applicable Classification Societies.

For maintenance of the class, regular and extraordinary surveys of hull and machinery, including the electrical plant and any special equipment classed, are required to be performed as follows:

#### ***Annual Surveys***

For seagoing ships, annual surveys are conducted for the hull and the machinery, including the electrical plant, and where applicable, on special equipment classed at intervals of 12 months from the date of commencement of the class period indicated in the certificate.

#### ***Intermediate Surveys***

Extended annual surveys are referred to as intermediate surveys and typically are conducted two and one-half years after commissioning and each class renewal. Intermediate surveys may be carried out on the occasion of the second or third annual survey.

#### ***Class Renewal Surveys***

Class renewal surveys, also known as special surveys, are carried out on the ship's hull and machinery, including the electrical plant, and on any special equipment classed at the intervals indicated by the character of classification for the hull. During the special survey, the vessel is thoroughly examined, including audio-gauging to determine the thickness of the steel structures. Should the thickness be found to be less than class requirements, the classification society would prescribe steel renewals. Substantial amounts of funds may have to be spent for steel renewals to pass a special survey if the vessel experiences excessive wear and tear. In lieu of the special survey, which is generally every five years, a shipowner has the option of arranging with the classification society for the vessel's hull or machinery to be on a continuous survey cycle, in which every part of the vessel would be surveyed within a five-year cycle. At a ship-owner's application, the surveys required for class renewal may be split according to an agreed schedule to extend over the entire period of class. This process is referred to as continuous class renewal. All areas subject to surveys as defined by the classification society are required to be surveyed at least once per class period, unless shorter intervals between surveys are otherwise prescribed. The period between two consecutive surveys of each area must not exceed five years.

All vessels are also dry-docked at least once every five years for inspection of their underwater parts and for repairs related to such inspections. If any defects are found, the classification surveyor will issue a “recommendation” which must be rectified by the ship-owner within prescribed time limits.

If any vessel does not maintain its class and/or fails any annual survey, intermediate survey, drydocking or special survey, the vessel will be unable to carry cargo between ports and will be unemployable and uninsurable which could cause us to be in violation of certain covenants in our loan agreements. Any such inability to carry cargo or be employed, or any such violation of covenants, could have a material adverse impact on our financial condition and results of operations.

The following table shows the classification societies for our vessels and lists the month by which they need to have completed their next drydocking:

Vessel Name	Classification Society	Drydocking Month <sup>(1)</sup>
CMA CGM Thalassa	Bureau Veritas	Dec-23
UASC Al Khor	DNV-GL & RINA	Jun-20
Anthea Y	DNV-GL & RINA	Aug-20
Maira XL	DNV-GL & RINA	Aug-20
MSC Tianjin	American Bureau of Shipping	Mar-20
MSC Qingdao	Bureau Veritas	Oct-24
GSL Ningbo	Bureau Veritas	Sep-24
GSL Eleni	DNV-GL	Jul-24
GSL Kalliopi	DNV-GL	Nov-24
GSL Grania	DNV-GL	Sep-24
Mary	RINA	Jan-23
Kristina	DNV-GL	Mar-23
Katherine	RINA	Apr-23
Alexandra	RINA	Jan-23
Alexis	DNV-GL & RINA	Jul-24
Olivia I	DNV-GL & RINA	Jul-24
CMA CGM Berlioz	Bureau Veritas	Jul-21
Agios Dimitrios	Bureau Veritas	Jan-21
New Purchase One	Lloyd’s Register	Jan-23
New Purchase Two	Lloyd’s Register	Dec-22
GSL Vinia <sup>(2)</sup>	Bureau Veritas	Mar-25
GSL Christel Elisabeth	Bureau Veritas	Jan-25
Tasman	Bureau Veritas	Jan-25
Dimitris Y	Bureau Veritas	May-20
Ian H	Bureau Veritas	Jul-20
Dolphin II	Bureau Veritas	Jan-22
Orca I	Bureau Veritas	Nov-21
CMA CGM Alcazar	Bureau Veritas	Nov-22
CMA CGM Château d’If	Bureau Veritas	May-22
CMA CGM Jamaica	DNV-GL	Sep-21
CMA CGM Sambhar	Lloyd’s Register	Jul-21
CMA CGM America	Lloyd’s Register	Dec-20
GSL Valerie	DNV-GL	Jun-20
Athena	RINA	Feb-23
Maira	RINA	Aug-20
Nikolas	RINA	Aug-20
Newyorker	RINA	Jan-21
GSL La Tour	Bureau Veritas	Jun-21
Manet <sup>(3)</sup>	Bureau Veritas	Oct-21
GSL Matisse	Bureau Veritas	Nov-20
Utrillo	Bureau Veritas	Jun-20
GSL Keta	Bureau Veritas	Mar-23
GSL Julie	Bureau Veritas	Nov-22
Kumasi	Bureau Veritas	Mar-22
Marie Delmas	Bureau Veritas	Jan-22

(1) Expected month of drydocking assumes that the vessel qualifies for in-water inspections at the intermediate survey.



- (2) Previously named Verdi.
- (3) Previously named GSL Manet.

The table does not take account of discretionary drydockings to effect vessel upgrades, or in response to proposed or actual regulatory changes such as for ballast water treatment.

### **Competition**

We operate in markets that are highly competitive. We expect to compete for vessel purchases and charters based upon price, customer relationships, operating expertise, professional reputation and size, age and condition of the vessel. We also expect to compete with many other companies, both other owners and operators including CMA CGM and its subsidiaries, to, among other things, purchase newbuildings and secondhand vessels to grow our fleet.

We expect substantial competition in obtaining new containership charters from a number of experienced and substantial companies. Many of these competitors may have greater financial resources than us, may operate larger fleets, may have been established for longer and may be able to offer better charter rates. Due to the recent industry downturn, there have been an increased number of vessels available for charter, including many from owners with strong reputations and experience. Excess supply of vessels in the container shipping market results in a more active short-term charter market and greater price competition for charters. As a result of these factors, we may be unable to purchase additional containerships, expand our relationships with existing customers or obtain new charterers on a profitable basis, if at all, which would have a material adverse effect on our business, results of operations and financial condition.

### **Permits and Authorizations**

We are required by various governmental and other agencies to obtain certain permits, licenses and certificates with respect to our vessels. The kinds of permits, licenses and certificates required depend upon several factors, including the commodities transported, the waters in which the vessel operates, the nationality of the vessel's crew and the age of a vessel. Not all of the permits, licenses and certificates currently required to operate the vessels globally have been obtained by us or our ship managers. For example, GSL Keta, GSL Julie, Kumasi and Marie Delmas have not been certified to comply with all U.S., Canadian and Panama Canal regulations, as our charterers do not intend to operate them in these waters.

### **Environmental and Other Regulations**

Government regulation significantly affects our business and the operation of our vessels. We are subject to international conventions and codes, and national, state, and local laws and regulations in the jurisdictions in which our vessels operate or are registered, including, among others, those governing the generation, management and disposal of hazardous substances and wastes, the cleanup of oil spills and other contamination, air emissions and water discharges. Because such laws and regulations frequently change, we cannot predict the ultimate cost of complying with these requirements or the impact of these requirements on the resale or current market value or useful lives of our vessels.

A variety of government, quasi-government and private entities require us to obtain permits, licenses or certificates for the operation of our vessels. Failure to maintain necessary permits or approvals could require us to incur substantial costs or temporarily suspend the operation of one or more of our vessels in one or more ports.

Increasing environmental concerns have created a demand for vessels that conform to the strictest environmental standards. We are required to maintain operating standards for all of our vessels that emphasize operational safety, quality maintenance, continuous training of our officers and crews and compliance with United States and international regulations and with flag state administrations.

The following is an overview of certain material governmental regulations that affect our business and the operation of our vessels.

### ***International Maritime Organization***

The IMO is the United Nations' agency for maritime safety. The IMO has adopted international conventions that impose liability for pollution in international waters and a signatory's territorial waters. For example, the IMO's International Convention for the Prevention of Pollution from Ships, or MARPOL, imposes environmental standards on the shipping industry relating to, among other things, pollution prevention and procedures, technical standards, oil spills management, transportation of marine pollutants and air emissions. Annex VI of MARPOL, which regulates air pollution from vessels, sets limits on sulfur oxide, nitrogen oxide and particulate matter emissions from vessel exhausts and prohibits deliberate emissions of ozone depleting substances, such as chlorofluorocarbons. We believe all of our vessels currently are Annex VI compliant. Annex VI also includes a global cap on the sulfur content of fuel oil with a lower cap (currently 0.1%) on the sulfur content applicable inside Emission Control Areas, or ECAs. Existing ECAs include the Baltic Sea, the North Sea, including the English Channel, the North American area and the U.S. Caribbean Sea area. Other areas in China are subject to local regulations that impose stricter emission controls. Additional geographical areas may be designated as ECAs in the future.

Annex VI calls for incremental reductions in sulfur in fuel between 2012 and 2020 (or 2015 in the case of ECAs), and the use of advanced technology engines designed to reduce emissions of nitrogen oxide, with a "Tier II" emission limit applicable to engines installed on or after January 1, 2011, and a more stringent "Tier III" emission limit applicable to engines installed on or after 2016 operating in the North American and U.S. Caribbean Sea nitrogen oxide ECAs and for engines installed on or after 2021 for vessels operating in the Baltic and North Sea. For future nitrogen oxide ECA designations, Tier III standards will apply to engines installed on ships constructed on or after the date of ECA designation, or a later date as determined by the country applying for the ECA designation. Additional ECAs could be established in the future. The IMO has undertaken a study for a new 0.1% m/m low sulfur ECA in the Mediterranean.

In 2016, the IMO confirmed its decision to implement a global sulfur cap of 0.5% m/m in 2020. Vessels should currently either be fitted with exhaust gas scrubbers, allowing the vessel to continue to use less expensive, high sulfur content fuel or should have undertaken fuel system modification and tank cleaning, allowing the use of more expensive, low sulfur fuel. From March 1, 2020, vessels not fitted with exhaust gas scrubbers cannot have high sulfur content fuel on board.

Our existing time charters call for our customers to supply fuel that complies with Annex VI. It may be that charterers of certain of our vessels will seek to comply with Annex VI by agreeing with us to have exhaust gas cleaning systems installed.

These amendments or other changes could require modifications to our vessels to achieve compliance, and the cost of compliance may be significant to our operations.

The IMO has also adopted technical and operational measures aimed at reducing greenhouse gas emissions from vessels. These include the “Energy Efficiency Design Index,” which is mandatory for newbuilding vessels, and the “Ship Energy Efficiency Management Plan,” which is mandatory for all vessels. The IMO now requires ships of 5,000 gross tonnage, or grt, or more to record and report their fuel consumption to their flag state at the end of each calendar year. The IMO plans to use this data to adopt an initial greenhouse gas emissions reduction strategy.

The IMO’s International Convention on Civil Liability for Bunker Oil Pollution Damage, or the Bunker Convention, imposes, subject to limited exceptions, strict liability on vessel owners for pollution damage in jurisdictional waters of ratifying states, which does not include the United States, caused by discharges of “bunker oil.” The Bunker Convention also requires owners of registered vessels over a certain size to maintain insurance for pollution damage in an amount generally equal to the limits of liability under the applicable national or international limitation regime. With respect to non-ratifying states, liability for spills or releases of oil carried as fuel in a ship’s bunkers typically is determined by the national or other domestic laws in the jurisdiction where the events or damages occur on a fault or strict-liability basis. We believe our vessels comply with the Bunker Convention.

The IMO’s International Convention for the Control and Management of Ships’ Ballast Water and Sediments, or the BWM Convention, requires the installation of ballast water treatment systems on certain newbuilding vessels for which the keel is laid after September 8, 2017 and for existing vessels at the renewal of their International Oil Pollution Prevention Certificate after September 8, 2019. The MEPC adopted updated guidelines for approval of ballast water management systems (G8) at MEPC 70. At MEPC 71, the schedule regarding the BWM Convention’s implementation dates was also discussed and amendments were introduced to extend the date existing vessels are subject to certain ballast water standards. Those changes were adopted at MEPC 72. Ships over 400 gross tons generally must comply with a “D-1 standard,” requiring the exchange of ballast water only in open seas and away from coastal waters. The “D-2 standard” specifies the maximum amount of viable organisms allowed to be discharged, and compliance dates vary depending on the IOPP renewal dates. Depending on the date of the IOPP renewal survey, existing vessels must comply with the D-2 standard on or after September 8, 2019. For most ships, compliance with the D-2 standard will involve installing on-board systems to treat ballast water and eliminate unwanted organisms. Ballast water management systems, which include systems that make use of chemical, biocides, organisms or biological mechanisms, or which alter the chemical or physical characteristics of the ballast water, must be approved in accordance with IMO Guidelines (Regulation D-3). As of October 13, 2019, MEPC 72’s amendments to the BWM Convention took effect, making the Code for Approval of Ballast Water Management Systems, which governs assessment of ballast water management systems, mandatory rather than permissive, and formalized an implementation schedule for the D-2 standard. Under these amendments, all ships must meet the D-2 standard by September 8, 2024. Costs of compliance with these regulations may be substantial. The BWM Convention also requires ships to carry an approved ballast water management plan, record books and statement of compliance. The BWM Convention also requires ships to carry an approved ballast water management plan, record books and statement of compliance. We will be required to incur significant costs to install these ballast water treatment systems on all our vessels before the applicable due dates.

The IMO’s International Convention on the Control of Harmful Anti-fouling Systems on Ships, or the Anti-fouling Convention,” prohibits the use of organotin compound coatings to prevent the attachment of mollusks and other sea life to the hulls of vessels and requires vessels over 400 grt engaged in international voyages to undergo an initial survey before the vessel is put into service or before an International Anti fouling System Certificate is issued for the first time, or subsequent surveys when the anti-fouling systems are altered or replaced. We have obtained Anti-fouling System Certificates for all of our vessels that are subject to the Anti-fouling Convention.

Amendments to MARPOL Annex V (regulation for the prevention of pollution by garbage from ships) adopted at MEPC 70 entered into force on March 1, 2018. The changes include criteria for determining whether cargo residues are harmful to the marine environment, and a new Garbage Record Book format with a new garbage category for e-waste. As all our existing containerships are compliant with MARPOL Annex V requirements, the amendments could cause us to incur additional operational costs for the handling of garbage produced on our fleet.

The IMO also regulates vessel safety. The International Safety Management Code, or the ISM Code, provides an international standard for the safe management and operation of ships and for pollution prevention. The ISM Code requires our vessels to develop and maintain an extensive “Safety Management System” that includes the adoption of a safety and environmental protection policy and implementation procedures. A Safety Management Certificate is issued under the provisions of the SOLAS Convention to each vessel with a Safety Management System verified to be in compliance with the ISM Code. Failure to comply with the ISM Code may subject a party to increased liability, may decrease available insurance coverage for the affected vessels, and may result in a denial of access to, or detention in, certain ports. All of the vessels in our fleet are ISM Code-certified. Furthermore, all seafarers are required to meet the standards of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, or STCW, and be in possession of a valid STCW certificate. Flag states that have ratified the SOLAS Convention and STCW generally employ the classification societies to undertake surveys to confirm compliance.

Furthermore, recent action by the IMO's Maritime Safety Committee and United States agencies indicate that cybersecurity regulations for the maritime industry are likely to be further developed in the near future in an attempt to combat cybersecurity threats. For example, cyber-risk management systems must be incorporated by ship-owners and managers by 2021. This might cause companies to create additional procedures for monitoring cybersecurity, which could require additional expenses and/or capital expenditures.

Increasingly, various regions are adopting additional, unilateral requirements on the operation of vessels in their territorial waters. These regulations, such as those described below, apply to our vessels when they operate in the relevant regions' waters and can add to operational and maintenance costs, as well as increase the potential liability that applies to violations of the applicable requirements.

## **United States**

### *The United States Oil Pollution Act of 1990 and CERCLA*

The United States Oil Pollution Act of 1990, ("OPA"), establishes an extensive regulatory and liability regime for the protection and cleanup of the environment from oil spills. The Comprehensive Environmental Response, Compensation and Liability Act, ("CERCLA"), governs spills or releases of hazardous substances other than petroleum or petroleum products. Under OPA and CERCLA, vessel owners, operators and bareboat charterers whose vessels trade or operate within the U.S., its territories and possessions or whose vessels operate in U.S. waters, which includes the U.S.'s territorial sea and its 200 nautical mile exclusive economic zone around the U.S., are jointly and, subject to limited exceptions, strictly liable for all containment and clean-up costs and other damages arising from discharges or threatened discharges of oil or hazardous substances, as applicable, from their vessels. OPA and CERCLA define these damages broadly to include certain direct and indirect damages and losses, including but not limited to assessment of damages, remediation, damages to natural resources such as fish and wildlife habitat, and agency oversight costs. Although our vessels do not carry oil as cargo, they do carry oil as bunkers, or fuel.

Under OPA and CERCLA, the liability of responsible parties is limited to a specified amount, which is periodically updated. Under both OPA and CERCLA, liability is unlimited if the incident is caused by gross negligence, willful misconduct or a violation of certain regulations. Similarly, liability limits do not apply (i) under OPA if the responsible party fails or refuses to report the incident where the responsible party knows or has reason to know of the incident or reasonably cooperate and assist as requested in connection with oil removal activities, or (ii) under CERCLA if the responsible person fails or refused to provide all reasonable cooperation and assistance as requested in connection with response activities where the vessel is subject to OPA.

We maintain pollution liability coverage insurance in the amount of \$1 billion per incident for each of our vessels. If the damages from a catastrophic spill were to exceed our insurance coverage it could harm our business, financial condition and results of operation. Vessel owners and operators must establish and maintain with the U.S. Coast Guard evidence of financial responsibility sufficient to meet their potential aggregate liabilities under OPA and CERCLA. Evidence of financial responsibility may be demonstrated by showing proof of insurance, surety bonds, self-insurance or guarantees. We have obtained the necessary U.S. Coast Guard financial assurance certificates, or COFRs, for each of our vessels currently in service and trading to the United States. Owners or operators of certain vessels operating in U.S. waters also must prepare and submit to the U.S. Coast Guard a response plan for each vessel, which plan, among other things, must address a "worst case" scenario environmental discharge and describe crew training and drills to address any discharge. Each of our vessels has the necessary response plans in place.

OPA and CERCLA do not prohibit individual states from imposing their own liability regimes with regard to oil pollution or hazardous substance incidents occurring within their boundaries, and some states have enacted legislation providing for unlimited liability for spills. In some cases, states that have enacted such legislation have not yet issued implementing regulations defining vessel owners' responsibilities under these laws. We intend to comply with all applicable state regulations in the ports where our vessels call. Nevertheless, future changes to OPA, CERCLA and other United States environmental regulations could adversely affect our operations.

#### *Clean Water Act*

The Clean Water Act, or CWA, establishes the basic structure for regulating discharges of pollutants into the "waters of the United States" and regulating quality standards for surface waters. The CWA authorizes civil and criminal penalties for discharging pollutants without a permit, failure to meet any requirement of a permit, and also allows for citizen suits against violators. The CWA imposes strict liability in the form of penalties for any unauthorized discharges, and substantial liability for the costs of removal, remediation and damages and complements the remedies available under OPA and CERCLA. In 2015, the EPA expanded the definition of "waters of the United States," thereby expanding federal authority under the CWA, but following litigation, the EPA and Department of the Army proposed a limited definition of "waters of the United States" in December 2018. The proposed rule was published in the Federal Register on February 14, 2019 and was subject to public comment. On October 22, 2019, the agencies published a final rule repealing the 2015 Rule defining "waters of the United States" and recodified the regulatory text that existing prior to the 2015 Rule. The final rule became effective on December 23, 2019. On January 23, 2020, the EPA published the "Navigable Waters Protection Rule," which replaces the rule published on October 22, 2019 and redefines "waters of the United States." The effect of this rule is still currently unknown. The CWA does not prohibit individual states from imposing more stringent conditions, which many states have done.

The EPA and the USCG have also enacted rules relating to ballast water discharge, compliance with which requires the installation of equipment on our vessels to treat ballast water before it is discharged or the implementation of other port facility disposal arrangements or procedures at potentially substantial costs, and/or otherwise restrict our vessels from entering U.S. Waters. The EPA will regulate these ballast water discharges and other discharges incidental to the normal operation of certain vessels within United States waters pursuant to the Vessel Incidental Discharge Act ("VIDA"), which was signed into law on December 4, 2018 and will replace the 2013 VGP program (which authorizes discharges incidental to operations of commercial vessels and contains numeric ballast water discharge limits for most vessels to reduce the risk of invasive species in U.S. waters, stringent requirements for exhaust gas scrubbers, and requirements for the use of environmentally acceptable lubricants) and current Coast Guard ballast water management regulations adopted under the U.S. National Invasive Species Act, or NISA, such as mid-ocean ballast exchange programs and installation of approved USCG technology for all vessels equipped with ballast water tanks bound for U.S. ports or entering U.S. waters. Under NISA, newbuilding vessels constructed after December 1, 2013 are required to have a U.S. Coast Guard-approved ballast water treatment system installed, and existing vessels, are required to have a ballast water treatment system installed on the first scheduled dry-dock after January 1, 2016

VIDA establishes a new framework for the regulation of vessel incidental discharges under the CWA, requires the EPA to develop performance standards for those discharges within two years of enactment, and requires the U.S. Coast Guard to develop implementation, compliance, and enforcement regulations within two years of EPA's promulgation of standards. Under VIDA, all provisions of the 2013 VGP and USCG regulations regarding ballast water treatment remain in force and effect until the EPA and U.S. Coast Guard regulations are finalized. Non-military, non-recreational vessels greater than 79 feet in length must continue to comply with the requirements of the VGP, including submission of a Notice of Intent, or NOI, or retention of a Permit Authorization and Record of Inspection form and submission of annual reports. We have submitted NOIs for our vessels where required. Compliance with the EPA, U.S. Coast Guard and state regulations could require the installation of ballast water treatment equipment on our vessels or the implementation of other port facility disposal procedures at potentially substantial cost, or may otherwise restrict our vessels from entering U.S. waters.

In addition, the Act to Prevent Pollution from Ships, or APPS, implements various provisions of MARPOL and applies to larger foreign-flag ships when operating in U.S. waters. The regulatory mechanisms established in APPS to implement MARPOL are separate and distinct from the CWA and other federal environmental laws. Civil and criminal penalties may be assessed under APPS for non-compliance.

#### *Additional Ballast Water Regulations*

The U.S. Coast Guard regulations also require vessels to maintain a vessel-specific ballast water management plan that addresses training and safety procedures, fouling maintenance and sediment removal procedures. Individual U.S. states have also enacted laws to address invasive species through ballast water and hull cleaning management and permitting requirements.

#### *Clean Air Act*

The Clean Air Act, or the CAA, and its implementing regulations subject our vessels to vapor control and recovery requirements when cleaning fuel tanks and conducting other operations in regulated port areas and to air emissions standards for our engines while operating in U.S. waters. The EPA has adopted standards that apply to certain engines installed on U.S. vessels and to marine diesel fuels produced and distributed in the United States. These standards are consistent with Annex VI of MARPOL and establish significant reductions for vessel emissions of particulate matter, sulfur oxides and nitrogen oxides.

The CAA also requires states to draft State Implementation Plans, or SIPs, designed to attain national health-based air quality standards in primarily major metropolitan and industrial areas. Several SIPs regulate emissions from degassing operations by requiring the installation of vapor control equipment on vessels. California has enacted regulations which apply to ocean-going vessels' engines when operating within 24 miles of the California coast and require operators to use low sulfur fuels. California also approved regulations to reduce emissions from diesel auxiliary engines on certain ocean-going vessels while in California ports, including container ship fleets that make 25 or more annual visits to California ports. These federal and state requirements may increase our capital expenditures and operating costs while in applicable ports. As with other U.S. environmental laws, failure to comply with the Clean Air Act may subject us to enforcement action, including payment of civil or criminal penalties and citizen suits.

#### ***European Union Requirements***

In waters of the EU, our vessels are subject to regulation by EU-level legislation, including directives implemented by the various member states through laws and regulations of these requirements. These laws and regulations prescribe measures, among others, to prevent pollution, protect the environment and support maritime safety. For instance, the EU has adopted directives that require member states to refuse access to their ports to certain sub-standard vessels, according to various factors, such as the vessel's condition, flag, and number of previous detentions (Directive 2009/16/EC on Port State Control as amended and supplemented from time to time). Member states must, among other things, inspect minimum percentages of vessels using their ports annually (based on an inspection "share" of the relevant member state of the total number of inspections to be carried out within the EU and the Paris Memorandum of Understanding on Port State Control region), inspect all vessels which are due for a mandatory inspection (based, among other things, on their type, age, risk profile and the time of their last inspection) and carry out more frequent inspections of vessels with a high risk profile. If deficiencies are found that are clearly hazardous to safety, health or the environment, the state is required to detain the vessel or stop loading or unloading until the deficiencies are addressed. Member states are also required to implement their own separate systems of proportionate penalties for breaches of these standards.

Our vessels are also subject to inspection by appropriate classification societies. Classification societies typically establish and maintain standards for the construction and classification of vessels, supervise that construction in accordance with such standards, and carry out regular surveys of ships in service to ensure compliance with such standards. The EU has adopted legislation (Regulation (EC) No 391/2009 and Directive 2009/15/EC, as amended and supplemented from time to time) that provides member states with greater authority and control over classification societies, including the ability to seek to suspend or revoke the authority of classification societies that are negligent in their duties. The EU requires member states to monitor these organizations' compliance with EU inspection requirements and to suspend any organization whose safety and pollution prevention performance becomes unsatisfactory.

The EU's directive on the sulfur content of fuels (Directive (EU) 2016/802, which consolidates Directive 1999/32/EC and its various amendments) restricts the maximum sulfur content of marine fuels used in vessels operating in EU member states' territorial seas, exclusive economic zones and pollution control zones. The directive provides for more stringent rules on maximum sulfur content of marine fuels applicable in specific Sulfur Emission Control Areas, or SECAs, such as the Baltic Sea and the North Sea, including the English Channel. Further sea areas may be designated as SECAs in the future by the IMO in accordance with Annex VI of MARPOL. Under this directive, we may be required to make expenditures to comply with the sulfur fuel content limits in the marine fuel our vessels use in order to avoid delays or other obstructions to their operations, as well as any enforcement measures which may be imposed by the relevant member states for non-compliance with the provisions of the directive. We also may need to make other expenditures (such as expenditures related to washing or filtering exhaust gases) to comply with relevant sulfur oxide emissions levels. The directive has been amended to bring the above requirements in line with Annex VI of MARPOL. It also makes certain of these requirements more stringent. These and other related requirements may require additional capital expenditures and increase our operating costs.

Through Directive 2005/35/EC (as amended by Directive 2009/123/EC and as further amended and supplemented from time to time), the EU requires member states to cooperate to detect pollution discharges and impose criminal sanctions for certain pollution discharges committed intentionally, recklessly or by serious negligence and to initiate proceedings against ships at their next port of call following the discharge. Penalties may include fines and civil and criminal penalties. Directive 2000/59/EC (as amended and supplemented from time to time) requires all ships (except for warships, naval auxiliary or other state-owned or state-operated ships on non-commercial service), irrespective of flag, calling at, or operating within, ports of member states to deliver all ship-generated waste and cargo residues to port reception facilities. Under the directive, a fee is payable by the ships for the use of the port reception facilities, including the treatment and disposal of the waste. The ships may be subject to an inspection for verification of their compliance with the requirements of the directive and penalties may be imposed for their breach.

The EU also authorizes member states to adopt the IMO's Bunker Convention, discussed above, that imposes strict liability on shipowners for pollution damage caused by spills of oil carried as fuel in vessels' bunkers and requires vessels of a certain size to maintain financial security to cover any liability for such damage. Most EU member states have ratified the Bunker Convention.

The EU has adopted a regulation (EU Ship Recycling Regulation (1257/2013)) which sets forth rules relating to vessel recycling and management of hazardous materials on vessels. The regulation contains requirements for the recycling of vessels at approved recycling facilities that must meet certain requirements, so as to minimize the adverse effects of recycling on human health and the environment. The regulation also contains rules for the control and proper management of hazardous materials on vessels and prohibits or restricts the installation or use of certain hazardous materials on vessels. The regulation seeks to facilitate the ratification of the IMO's Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009. The regulation applies to vessels flying the flag of a member state and certain of its provisions apply to vessels flying the flag of a third country calling at a port or anchorage of a member state. For example, when calling at a port or anchorage of a member state, a vessel flying the flag of a third country will be required, among other things, to have on board an inventory of hazardous materials which complies with the requirements of the new regulation and the vessel must be able to submit to the relevant authorities of that member state a copy of a statement of compliance issued by the relevant authorities of the country of the vessel's flag verifying the inventory. The regulation entered into force on December 30, 2013, although certain of its provisions are to apply at different stages, with certain of them applicable from December 31, 2020. Pursuant to this regulation, the EU Commission adopted the first version of a European List of approved ship recycling facilities meeting the requirements of the regulation, as well as four further implementing decisions dealing with certification and other administrative requirements set out in the regulation.

The EU is considering other proposals to further regulate vessel operations. The EU has adopted an Integrated Maritime Policy for the purposes of achieving a more coherent approach to maritime issues through coordination between different maritime sectors and integration of maritime policies. The Integrated Maritime Policy has sought to promote the sustainable development of the European maritime economy and to protect the marine environment through cross-sector and cross-border cooperation of maritime participants. The EU Commission's proposals included, among other items, the development of environmentally sound end-of-life ship dismantling requirements (as described above in respect of the EU Ship Recycling Regulation (1257/2013)), promotion of the use of shore-side electricity by ships at berth in EU ports to reduce air emissions, and consideration of options for EU legislation to reduce greenhouse gas emissions from maritime transport. The European Maritime Safety Agency has been established to provide technical support to the EU Commission and member states in respect of EU legislation pertaining to maritime safety, pollution and security. The EU, any individual country or other competent authority may adopt additional legislation or regulations applicable to us and our operations.

### ***Other Greenhouse Gas Legislation***

Currently, the emissions of greenhouse gases from international shipping are not subject to the Kyoto Protocol to the United Nations Framework Convention on Climate Change, which entered into force in 2005 and pursuant to which adopting countries have been required to implement national programs to reduce greenhouse gas emissions with targets extended through 2020. International negotiations are continuing with respect to a successor to the Kyoto Protocol, and restrictions on shipping emissions may be included in any new treaty. In December 2009, more than 27 nations, including the U.S. and China, signed the Copenhagen Accord, which includes a non-binding commitment to reduce greenhouse gas emissions. The 2015 United Nations Climate Change Conference in Paris resulted in the Paris Agreement, which entered into force on November 4, 2016 and does not directly limit greenhouse gas emissions from ships. The U.S. initially entered into the agreement, but on June 1, 2017, the U.S. President announced that the United States intends to withdraw from the Paris Agreement, which provides for a four-year exit process, meaning that the earliest possible effective withdrawal date cannot be before November 4, 2020. The timing and effect of such action has yet to be determined.

The IMO, EU, the United States and other individual countries, states and provinces are evaluating various measures to reduce greenhouse gas emissions from international shipping, which may include some combination of market-based instruments, a carbon tax or other mandatory reduction measures. The EU adopted Regulation (EU) 2015/757 concerning the monitoring, reporting and verification of carbon dioxide emissions from vessels, or the MRV Regulation, which entered into force in July 2015 (as amended by Regulation (EU) 2016/2071). The MRV Regulation applies to all vessels over 5,000 gross tonnage (except for a few types, including, but not limited to, warships and fish-catching or fish-processing vessels), irrespective of flag, in respect of carbon dioxide emissions released during voyages within the EU as well as EU incoming and outgoing voyages. The first reporting period commenced on January 1, 2018. The monitoring, reporting and verification system adopted by the MRV Regulation may be the precursor to a market-based mechanism to be adopted in the future. The EU is currently considering a proposal for the inclusion of shipping in the EU Emissions Trading System.

At MEPC 70 and MEPC 71, a draft outline of the structure of the initial strategy for developing a comprehensive IMO strategy on reduction of greenhouse gas emissions from ships was approved. In accordance with this roadmap, in April 2018, nations at the MEPC 72 adopted an initial strategy to reduce greenhouse gas emissions from ships. The initial strategy identifies "levels of ambition" to reducing greenhouse gas emissions, including (1) decreasing the carbon intensity from ships through implementation of further phases of the EEDI for new ships; (2) reducing carbon dioxide emissions per transport work, as an average across international shipping, by at least 40% by 2030, pursuing efforts towards 70% by 2050, compared to 2008 emission levels; and (3) reducing the total annual greenhouse emissions by at least 50% by 2050 compared to 2008 while pursuing efforts towards phasing them out entirely. The initial strategy notes that technological innovation, alternative fuels and/or energy sources for international shipping will be integral to achieve the overall ambition. These regulations could cause us to incur additional substantial expenses.

The EU made a unilateral commitment to reduce overall greenhouse gas emissions from its member states from 20% of 1990 levels by 2020. The EU also committed to reduce its emissions by 20% under the Kyoto Protocol's second period from 2013 to 2020. Starting in January 2018, large ships over 5,000 gross tonnage calling at EU ports are required to collect and publish data on carbon dioxide emissions and other information.



In the United States, the EPA issued a finding that greenhouse gases endanger the public health and safety, adopted regulations to limit greenhouse gas emissions from certain mobile sources, and proposed regulations to limit greenhouse gas emissions from large stationary sources. However, in March 2017, the U.S. President signed an executive order to review and possibly eliminate the EPA's plan to cut greenhouse gas emissions. The EPA or individual U.S. states could enact environmental regulations that would affect our operations.

Any passage of climate control legislation or other regulatory initiatives by the IMO, the EU, the U.S. or other countries where we operate, or any treaty adopted at the international level to succeed the Kyoto Protocol or Paris Agreement, that restricts emissions of greenhouse gases could require us to make significant financial expenditures which we cannot predict with certainty at this time. Even in the absence of climate control legislation, our business may be indirectly affected to the extent that climate change may result in sea level changes or certain weather events.

### ***Other Regions***

We may be subject to environmental and other regulations that have been or may become adopted in other regions of the world that may impose obligations on our vessels and may increase our costs to own and operate them. Compliance with these requirements may require significant expenditures on our part and may materially increase our operating costs.

Of particular importance, due to the trade intensity in these areas, are four ECAs created in Hong Kong and in China (Pearl River Delta, the Yangtze River Delta and Bohai Sea), aiming to reduce the levels of ship-generated air pollution and focus on the sulfur content of fuels. As of January 1, 2017, vessels at berth in a core port within an emission control area are required to use fuel with a maximum sulfur content of 0.5% m/m—except one hour after arrival and one hour before departure. Since January 1, 2018, all ports within Chinese emission control areas have implemented this standard. As of January 1, 2019, vessels must switch to fuel with a sulfur content not exceeding 0.5% m/m prior to entering China's territorial sea, in defined areas. From January 1, 2020, vessels entering Inland ECAs (Yangtze River and Xi Jiang River) must use fuel with a sulfur content not exceeding 0.10% while operating within the Inland ECA. Looking further ahead, a sulfur cap of 0.1% will apply to seagoing vessels entering Hainan Waters within the coastal ECA from January 1, 2022. Vessels capable of receiving shore power must use shore power if they berth for more than three hours in ports in the coastal ECA that have shore power capabilities (or more than two hours in ports with such capabilities in the Inland ECAs). Furthermore, ships of 400 gross tonnage or over, or ships powered by main propulsion machinery greater than 750 kW of propulsion power, calling at a port in China should report energy consumption data of their last voyage to China MSA before leaving port (China Regulation on Data Collection for Energy Consumption of Ships). Hong Kong's current Fuel at Berth Regulation requiring ships to burn fuel with a sulfur content not exceeding 0.5% m/m while at berth are expected to be replaced by a regulation extending the standard to ships operating in Hong Kong waters. Ships not fitted with scrubbers will be required to burn fuel with a sulfur content not exceeding 0.5% m/m within Hong Kong waters, irrespective of whether they are sailing or at berth. In Taiwan, ships not fitted with exhaust gas scrubbers must burn fuel with a sulfur content not exceeding 0.5% m/m when entering its international commercial port areas.

In connection with the introduction of the ban of high sulfur fuel for vessels not fitted with exhaust gas scrubbers, a number of countries are introducing rules as to the type of exhaust gas scrubber that may be acceptable to be operated on vessels, in effect prohibiting the operation in their waters of hybrid or open loop type exhaust gas scrubbers and forcing vessels to use more expensive closed loop systems or to burn low sulfur fuel when sailing in their waters.

### ***International Labor Organization***

The International Labor Organization is a specialized agency of the UN that has adopted the Maritime Labor Convention 2006 ("MLC 2006"). A Maritime Labor Certificate and a Declaration of Maritime Labor Compliance is required to ensure compliance with the MLC 2006 for all ships above 500 gross tons in international trade. We believe that all our vessels are in substantial compliance with and are certified to meet MLC 2006.

## ***Vessel Security Regulations***

Since September 2001, there have been a variety of initiatives intended to enhance vessel security. In November 2002, the U.S. Maritime Transportation Security Act of 2002, or the MTSA, came into effect. To implement certain portions of the MTSA, the U.S. Coast Guard has issued regulations requiring the implementation of certain security requirements aboard vessels operating in waters subject to the jurisdiction of the United States and at certain ports and facilities, some of which are regulated by the EPA. Similarly, amendments to the SOLAS Convention created a new chapter of the convention dealing specifically with maritime security, which came into effect in July 2004. To trade internationally, a vessel must attain an International Ship Security Certificate, or ISSC, from a recognized security organization approved by the vessel's flag state. Ships operating without a valid certificate may be detained, expelled from, or refused entry at port until they obtain an ISSC. The new chapter imposes various detailed security obligations on vessels and port authorities, most of which are contained in the International Ship and Port Facilities Security Code, or ISPS Code. Among the various requirements are:

- on-board installation of automatic information systems, to enhance vessel-to-vessel and vessel-to-shore communications;
- on-board installation of ship security alert systems;
- the development of vessel security plans; and
- compliance with flag state security certification requirements.

The United States Coast Guard regulations, intended to align with international maritime security standards, exempt non-U.S. vessels from MTSA vessel security measures if such vessels have on board a valid International Ship Security Certificate, that attests to the vessel's compliance with the SOLAS Convention security requirements and the ISPS Code. Our existing vessels have implemented the various security measures addressed by the MTSA, the SOLAS Convention and the ISPS Code.

### **Inspection by Classification Societies**

The hull and machinery of every commercial vessel must be classed by a classification society authorized by its country of registry. The classification society certifies that a vessel is safe and seaworthy in accordance with the applicable rules and regulations of the country of registry of the vessel and SOLAS. Most insurance underwriters make it a condition for insurance coverage and lending that a vessel be certified "in class" by a classification society which is a member of the International Association of Classification Societies, the IACS. The IACS has adopted harmonized Common Structural Rules, or "the Rules," which apply to oil tankers and bulk carriers contracted for construction on or after July 1, 2015. The Rules attempt to create a level of consistency between IACS Societies. All of our vessels are certified as being "in class" by all the applicable Classification Societies.

A vessel must undergo annual surveys, intermediate surveys, drydockings and special surveys. In lieu of a special survey, a vessel's machinery may be on a continuous survey cycle, under which the machinery would be surveyed periodically over a five-year period. Every vessel is also required to be drydocked every 30 to 36 months for inspection of the underwater parts of the vessel. If any vessel does not maintain its class and/or fails any annual survey, intermediate survey, drydocking or special survey, the vessel will be unable to carry cargo between ports and will be unemployable and uninsurable which could cause us to be in violation of certain covenants in our loan agreements. Any such inability to carry cargo or be employed, or any such violation of covenants, could have a material adverse impact on our financial condition and results of operations.

## **Risk of Loss and Liability Insurance**

### ***General***

The operation of any cargo vessel includes risks such as mechanical failure, physical damage, collision, property loss, cargo loss or damage and business interruption due to political circumstances in foreign countries, piracy incidents, hostilities and labor strikes. In addition, there is always an inherent possibility of marine disaster, including oil spills and other environmental mishaps, and the liabilities arising from owning and operating vessels in international trade. OPA, which imposes virtually unlimited liability upon shipowners, operators and bareboat charterers of any vessel trading in the exclusive economic zone of the United States for certain oil pollution accidents in the United States, has made liability insurance more expensive for shipowners and operators trading in the United States market. We carry insurance coverage as customary in the shipping industry. However, not all risks can be insured, specific claims may be rejected, and we might not be always able to obtain adequate insurance coverage at reasonable rates.

### ***Hull & Machinery, Loss of Hire and War Risks Insurance***

We maintain marine hull and machinery, increased value and war risks insurances, which cover the risk of actual or constructive total loss, for all of our vessels. Our vessels are each covered up to at least fair market value, which we expect to assess at least annually, with certain deductibles per vessel per incident. We also maintain freight value coverage for each of our vessels under which in the event of total loss or constructive total loss of a vessel, we will be entitled to recover amounts otherwise not recoverable under our basic hull and machinery or war policies. As required by the terms of the Citi Credit Facility and the indenture governing the 2022 Notes, we have assigned certain of our insurance policies to our lenders under the Citi Credit Facility and the holders of the 2022 Notes and will be subject to restrictions on our use of any proceeds therefrom.

We do not have loss-of-hire insurance covering the loss of revenue during extended off-hire periods. We evaluate obtaining such coverage on an ongoing basis, taking into account insurance market conditions and the employment of our vessels.

### ***Protection and Indemnity Insurance***

Protection and indemnity insurance is provided by mutual protection and indemnity associations, or P&I associations, which insure our third-party and crew liabilities in connection with our shipping activities. Coverage includes third-party liability, crew liability and other related expenses resulting from the abandonment, injury or death of crew, and other third parties, the loss or damage to cargo, claims arising from collisions with other vessels, damage to other third-party property, pollution arising from oil or other substances and salvage, towing and other related costs, including wreck removal. Protection and indemnity insurance is a form of mutual indemnity insurance, extended by P&I associations. Subject to the limit for pollution discussed below, our coverage is virtually unlimited, but subject to the rules of the particular protection and indemnity insurer.

Our current protection and indemnity insurance coverage for pollution is up to \$1.0 billion per vessel per incident. The 13 P&I associations that comprise the International Group insure approximately 90% of the world's commercial blue-water tonnage and have entered into a pooling agreement to reinsure each association's liabilities. The International Group's website states that the Pool provides a mechanism for sharing all claims in excess of US \$10 million up to, currently, approximately US\$ 7.0 billion. As a member of a P&I Association, which is a member of the International Group, we are subject to calls payable to the associations based on our claim records as well as the claim records of all other members of the individual associations and members of the shipping pool of P&I Associations comprising the International Group.

## **C. Organizational Structure**

Our holding company, Global Ship Lease, Inc., is a Marshall Islands corporation. Each of our vessels is owned by a separate wholly-owned subsidiary. 23 vessels are owned by companies incorporated in Marshall Islands; nine vessels are owned by companies incorporated in Cyprus, nine vessels are owned by companies incorporated in Liberia and four by companies incorporated in Hong Kong. In addition, GSLS, a company incorporated in England and Wales and which is directly wholly owned by the holding company, and GSL Enterprises Ltd., a Marshall Islands corporation which has established a branch office in Greece pursuant to the provisions of art. 25 of Law 27/1975 (formerly law 89/1967), provide certain administrative services to the group.

A list of our subsidiaries and their respective countries of incorporation is provided as Exhibit 8.1 to this Annual Report on Form 20-F.

#### **D. Property, Plants and Equipment**

Our only material properties are the vessels in our fleet, which are described in “Item 4. Information on the Company—B. Business Overview.” The vessels are affected by environmental and other regulations. See “Item 4. Information on the Company—B. Business Overview—Environmental and Other Regulations.” Certain of our vessels serve as security under our debt agreements. See “Item 5. Operating and Financial Review—B. Liquidity and Financial Resources—Indebtedness.” We do not own any real property.

#### **Item 4A. Unresolved Staff Comments**

Not applicable.

#### **Item 5. Operating and Financial Review and Prospects**

##### **A. Operating Results**

#### **Management’s Discussion and Analysis of Financial Condition and Results of Operations**

*The following discussion and analysis of our financial condition and results of operations should be read in conjunction with our consolidated financial statements and the related notes and the financial and other information included elsewhere in this Annual Report. The term consolidated financial statements refers to the consolidated financial statements of Global Ship Lease, Inc. and its subsidiaries. This discussion contains forward-looking statements based on assumptions about our future business. Our actual results will likely differ materially from those contained in the forward-looking statements. See “Cautionary Note Regarding Forward-Looking Statements” at the beginning of this Annual Report.*

#### **Overview**

We are a containership owner, incorporated in the Marshall Islands. We commenced operations in December 2007 with a business of owning and chartering out containerships under fixed rate charters to container liner companies.

As of December 31, 2019, we owned 43 vessels and had contracted to purchase two further vessels. Including these two vessels, our fleet has a total capacity of 248,968 TEU with an average age, weighted by TEU capacity, of 12.8 years.

We have entered into ship management agreements with a third-party ship manager for the day-to-day technical management of our current fleet of vessels. See “Item 4. Information on the Company—B. Business Overview—Management of Our Fleet” for a more detailed description of our ship management agreements.

Our financial results are largely driven by the following factors:

- the continued performance of the charter agreements;
- the number of vessels in our fleet and their charter rates;
- the terms under which we recharter our vessels once the existing time charters have expired;
- the number of days that our vessels are utilized and not subject to drydocking, special surveys or otherwise are off-hire;

- our ability to control our costs, including ship operating costs, ship management fees, insurance costs, drydock costs, general, administrative and other expenses and interest and financing costs. Ship operating costs may vary from month to month depending on a number of factors, including the timing of purchases of spares and stores and of crew changes;
- impairment of our vessels and other non-current assets; and
- access to, and the pricing and other terms of, our financing arrangements.

As at December 31, 2019 and as adjusted to include the two ships delivered in 2020 and new charters agreed through March 31, 2020, the average remaining term of our charters at December 31, 2019, to the mid-point of redelivery, including options under our control, was 2.5 years on a TEU-weighted basis. The time charters for nine of our 45 containerships either have expired or could expire before the end of the first half of 2020, and a further 12 vessels have charters that could expire during the second half of 2020. The charter rate that we will be able to achieve on renewal will be affected by market conditions at that time. As discussed further below, operational matters such as off-hire days for planned maintenance or for unexpected accidents and incidents also affect the actual amount of revenues we receive.

As of December 31, 2019, CMA CGM is our main customer and charter payments from them are a major source of operating cash flow. At any given time in the future, the cash resources of CMA CGM may be diminished or exhausted, and we cannot assure you that CMA CGM will be able to make charter payments to us.

The container shipping industry suffered a cyclical downturn as a result of the Global Financial Crisis in 2008 - 2009 and many container shipping companies reported substantial losses. Financial performance of container shipping companies has subsequently improved; however, the industry has remained under pressure due to oversupply of container ship capacity. Nevertheless, charter payments have been received on a timely basis in 2019 and, as of December 31, 2019, charterhire was up-to-date. If our charterers are unable to make charter payments to us, our results of operations and financial condition will be materially adversely affected. If our existing charters with our charterers were terminated and we were required to recharter at lower rates or if we were unable to find new charters due to market conditions, our results of operations and financial condition would be materially adversely affected.

### **Critical Accounting Policies and Estimates**

The consolidated financial statements have been prepared in accordance with U.S. GAAP, which requires us to make estimates in the application of certain accounting policies based on our best assumptions, judgments and opinions. We base these estimates on the information available to us at the time and on various other assumptions we believe are reasonable under the circumstances. The following is a discussion of our principal accounting policies, some of which involve a high degree of judgment, and the methods of their application.

For a further description of our material accounting policies, please see note 3 to the consolidated financial statements included at “Item 18. Financial Statements.”

### ***Revenue Recognition***

Our revenue is generated from long-term time charters for each vessel. The charters are regarded as operating leases and provide for a per vessel fixed daily charter rate. Revenue is recorded on a straight-line basis. Assuming our vessels are not off-hire, our charter revenues are fixed for the period of the current charters and, accordingly, little judgment is required to be applied to the amount of revenue recognition. Operating revenue is stated net of address commissions, which represent a discount provided directly to the charterer based on a fixed percentage of the agreed upon charter rate.

### ***Vessels in Operation***

Vessels are generally recorded at their historical cost, which consists of the acquisition price and any material expenses incurred upon acquisition. Vessels acquired in a corporate transaction accounted for as an asset acquisition are stated at the acquisition price, which consists of consideration paid, plus transaction costs less any negative goodwill, if applicable. Vessels acquired in a corporate transaction accounted for as a business combination are recorded at fair value. Vessels acquired as part of the Marathon Merger in 2008 were accounted for under ASC 805, which required that the vessels be recorded at fair value, less the negative goodwill arising as a result of the accounting for the merger.

Subsequent expenditures for major improvements and upgrades are capitalized, provided they appreciably extend the life, increase the earnings capacity or improve the efficiency or safety of the vessels.

Borrowing costs incurred during the construction of vessels or as part of the prefinancing of the acquisition of vessels are capitalized. There was no capitalized interest for the years ended December 31, 2019 or 2018. Other borrowing costs are expensed as incurred.

Vessels are stated less accumulated depreciation and impairment, if applicable. Vessels are depreciated to their estimated residual value using the straight-line method over their estimated useful lives which are reviewed on an ongoing basis to ensure they reflect current technology, service potential and vessel structure. The useful lives are estimated to be 30 years from original delivery by the shipyard.

For any vessel group which is impaired, the impairment charge is recorded against the cost of the vessel and the accumulated depreciation as of the date of impairment is removed from the accounts.

The cost and related accumulated depreciation of assets retired or sold are removed from the accounts at the time of sale or retirement and any gain or loss is included in the Consolidated Statements of Operations.

### ***Vessels acquisitions***

The Poseidon Transaction has been accounted for under ASU 2017-01 as an asset acquisition. The vessels acquired on November 15, 2018 were recorded at their fair value, based on valuations obtained from third party independent ship brokers, less negative goodwill arising as a result of the accounting for the overall Poseidon Transaction, allocated pro-rata.

### ***Drydocking***

Our vessels are drydocked approximately every five years for their special survey and for major repairs and maintenance that cannot be performed while the vessels are operating. Costs associated with the drydocks are capitalized as a component of the cost of the relevant vessel as they occur and are amortized on a straight line basis over the period to the next anticipated drydock, which are typically at five year intervals. Other expenditures relating to maintenance and repairs are expensed when incurred.

Prior to the completion of the Poseidon Transaction on November 15, 2018, we allocated an element of the purchase price of a vessel to a drydocking component which was amortized on a straight-line basis to the next anticipated drydocking date.

Costs capitalized as part of the drydock include costs directly associated with the special survey of the ship, its hull and its machinery and for the defouling and repainting of the hull. Any cost of repair to hull or machinery that extends useful life is capitalized. Other repair costs are expensed. Five drydockings were completed in 2019 for regulatory reasons and five vessel upgrades were completed, the total cost of which, excluding the effect of the associated 537 days of offhire, was \$8.7 million. The duration of drydockings was adversely affected in 2019 by congestion at Chinese and other shipyards as a result of scrubber retrofitting. Two drydockings were completed in 2018 for regulatory reasons the total cost of which, excluding the effect of the associated 34 days of offhire, was \$2.5 million. Four drydockings were completed in 2017, the total cost of which, excluding the effect of the associated 62 days of offhire, was \$4.0 million. Six drydockings were completed in 2016 for regulatory reasons, the total cost of which, excluding the effect of the associated 100 days of offhire, was \$7.9 million. One such drydocking was completed in 2015, the total cost of which, excluding the effect of nine days offhire, was \$1.5 million.

## ***Impairment of Long-lived Assets***

Tangible fixed assets, such as vessels, are reviewed individually for impairment when events or changes in circumstances indicate that their carrying amounts may not be recoverable. Undiscounted projected operating cash flows are determined for each vessel group, which comprises of the vessel, the unamortized portion of deferred drydocking related to the vessel and the related carrying value of the intangible asset or liability (if any) with respect to the time charter attached to the vessel at its purchase, if applicable (together the “vessel group”) and compared to the carrying value of the vessel group (step one). Within the shipping industry, vessels can be purchased with a charter attached. The value of the charter may be favorable or unfavorable when comparing the contracted charter rate to then current market rates. An impairment charge is recognized when the sum of the expected undiscounted future cash flows from the vessel group over its estimated remaining useful life is less than its carrying amount (step one) and is recorded equal to the amount by which the vessel group’s carrying amount exceeds its fair value, including any applicable charter. Fair value is determined with the assistance from valuations obtained from third party independent ship brokers (step two).

The assumptions used involve a considerable degree of estimation. Actual conditions may differ significantly from the assumptions and thus actual cash flows may be significantly different to those estimated with a material effect on the recoverability of each vessel’s carrying amount. The most significant assumptions made for the determination of expected cash flows are:

- charter rates on expiry of existing charters, net of address commissions, which are based on forecast charter rates, where relevant, in the four years from the date of the impairment test and a reversion to the historical mean for each vessel thereafter;
- off-hire days, which are based on actual off-hire statistics for our fleet;
- operating costs, based on current levels escalated over time based on long term trends;
- dry docking frequency, duration and cost;
- the cost of fitting ballast water treatment systems;
- estimated useful life, which is assessed as a total of 30 years from original delivery by the shipyard; and
- scrap values.

Whilst charter rates in the spot market and asset values saw overall improvements through 2019, taking into account the seasonal as well as cyclical nature of the container shipping industry, the recovery was not considered to have been sufficiently sustained not to undertake a review for impairment for vessel groups where the carrying value as at December 31, 2019 might not be recoverable. Consequently, we performed an impairment analysis (step one) to estimate the future undiscounted cash flows for each of their vessel groups. The assessment concluded that no impairment of vessels existed as of December 31, 2019, as the undiscounted projected net operating cash flows exceeded the carrying values. Step two of the impairment analysis was not required.

Whilst charter rates in the spot market and asset values saw overall improvements through 2018, taking into account the seasonal as well as cyclical nature of the container shipping industry, the recovery was not considered to have been sufficiently sustained not to undertake a fleet-wide review for impairment as at December 31, 2018 for the 19 vessels in the GSL Fleet.

As a result, we performed step one of the impairment assessment of each of the vessel groups in the GSL Fleet by comparing the undiscounted projected net operating cash flows for each vessel group to the carrying value of the vessel group.

During the year ended December 31, 2018, our assessment concluded that step two of the impairment analysis was required for three of our vessels groups that were held and used, as the undiscounted projected net operating cash flows did not exceed the carrying value. As a result, an impairment loss of \$71.8 million was recorded for three vessels, shown as "Impairment of vessels" in the Consolidated Statements of Operations, being the difference between the fair value of the vessel group (which included the charter attached) and the vessel group's carrying value.

No impairment test was performed for the vessels comprising the Poseidon Fleet as at December 31, 2018, as no events or circumstances existed indicating that their carrying value may not be recoverable. The carrying value of the vessels at December 31, 2018 was significantly lower than their fair value, mainly as a result of the allocation of negative goodwill arising from the accounting for the Poseidon Transaction.

In September 2018, we agreed with CMA CGM to extend the charter on GSL Julie and entered a new charter with Maersk Line for GSL Ningbo (formerly OOCL Ningbo). These extensions triggered the performance of an impairment test on the two vessels; no impairment was identified.

In January 2018, we agreed with CMA CGM to extend the charter on GSL Tianjin by eight to 12 months (at the charterer's option) at a fixed rate of \$11,900 per day, commencing January 26, 2018. In February 2018, we agreed with OOCL to extend the charter of OOCL Qingdao to between January 1, 2019 and March 15, 2019 (at the charterer's option) at a fixed rate of \$14,000 per day, commencing March 11, 2018. These extensions triggered the performance of an impairment test on the two vessels; no impairment was identified.

The impairment assessment performed for 2017 resulted in an impairment charge of \$87.6 million.

Although we currently intend to continue to hold and operate all of our vessels, the following table presents information with respect to the carrying value of our vessels, which are after the impairment charges noted above, and indicates whether their estimated market values, based on charter attached valuations as at December 31, 2019 with the assistance of an independent ship broking firm and totaling \$1,303.0 million, are below their carrying values as at December 31, 2019. The carrying value of each of the vessels does not necessarily represent its fair market value or the amount that could be obtained if the vessel were sold. We would not record an impairment for any of the vessels for which the market value based on charter attached valuations is below its carrying value unless and until we either determine to sell the vessel for a loss or determine that the vessel's carrying amount is not recoverable. We believe that the undiscounted cash flows over the estimated remaining useful lives for those vessels that show estimated market values below their carrying values exceed such vessels' carrying values as at December 31, 2019, and accordingly have not recorded any further impairment charge. As noted above, for impairment testing we assume that charter rates will revert to historic averages after four years, where relevant. Over the last few years, historic average rates have declined as stronger earlier years are replaced with weaker later years. If time charter rates do not show material and sustained improvement, we expect that our average estimated daily time charter rates used in future impairment analyses will decline, resulting in reduced estimated undiscounted future net cash flows to an amount which is less than the carrying value of certain vessels. In accordance with our accounting policy, if this occurs and we are required to perform any impairment tests, we may be required to recognize a non-cash impairment charge equal to the excess of the impacted vessels' carrying value over their fair value. Sensitivity analysis as at December 31, 2019 suggests that a reduction of 10.0% in the charter rates assumed after expiry of the existing charter contracts under the current methodology would trigger a theoretical impairment charge of approximately \$30.3 million. A reduction of 5.0% in the assumed charter rates would trigger a theoretical impairment charge of approximately \$12.6 million.

The amount, if any, and timing of any impairment charges we may recognize in the future will depend upon then current and expected future charter rates and vessel values, which may differ materially from those used in our estimates at December 31, 2019. In addition, vessel values are highly volatile; as such, the estimated market values may not be indicative of the current or future market value of our vessels or prices that we could achieve if we were to sell them, with or without charters attached.



The table below sets out the carrying value of each of the vessels we owned as of December 31, 2018 and 2019:

Vessel Name	Capacity in TEUs	Year Built	Carrying Value <sup>(1)</sup> as at December 31, 2018 (in millions of U.S. dollars)	Carrying Value as at December 31, 2019 (in millions of U.S. dollars)
CMA CGM Thalassa *	11,040	2008	\$ 107.7	\$ 102.9
UASC Al Khor	9,115	2015	69.6	67.5
Anthea Y	9,115	2015	69.6	67.5
Maira XL	9,115	2015	69.6	67.5
MSC Tianjin *	8,603	2005	46.0	43.8
MSC Qingdao *	8,603	2004	44.1	43.0
GSL Ningbo *	8,603	2004	45.3	43.5
GSL Grania	7,847	2004	—	16.4
GSL Eleni	7,847	2004	—	19.6
GSL Kalliopi	7,847	2004	—	16.3
Mary	6,927	2013	48.1	46.6
Kristina	6,927	2013	48.2	48.8
Katherine	6,927	2013	48.1	48.8
Alexandra	6,927	2013	48.2	48.4
Alexis	6,882	2015	53.8	54.3
Olivia I	6,882	2015	53.8	54.4
CMA CGM Berlioz *	6,621	2001	33.8	31.8
Agios Dimitrios	6,572	2011	22.7	22.1
GSL Vinia	6,080	2004	—	12.5
GSL Christel Elisabeth	6,080	2004	—	13.3
Tasman	5,936	2000	11.3	12.4
Dimitris Y	5,936	2000	11.3	11.2
Ian H	5,936	2000	11.4	11.3
Dolphin II	5,095	2007	12.2	12.0
Orca I *	5,095	2006	11.3	11.2
CMA CGM Alcazar *	5,089	2007	35.0	33.4
CMA CGM Château d'If *	5,089	2007	32.3	31.0
CMA CGM Jamaica *	4,298	2006	30.3	28.7
CMA CGM Sambhar *	4,045	2006	29.0	27.5
CMA CGM America *	4,045	2006	28.4	27.0
GSL Valerie *	2,824	2005	11.2	10.8
Athena	2,762	2003	8.5	8.3
Maira (G)	2,506	2000	5.7	5.6
Nikolas (G)	2,506	2000	5.7	5.6
Newyorker (G)	2,506	2001	6.1	5.9
GSL La Tour (G)*	2,272	2001	10.3	9.7
Manet (G)*	2,272	2001	10.9	10.2
GSL Matisse (G)*	2,262	1999	8.5	9.1
CMA CGM Utrillo (G)*	2,262	1999	8.4	7.8
GSL Keta (G)	2,207	2003	4.8	4.5
GSL Julie (G)	2,207	2002	5.2	4.9
Kumasi (G)	2,207	2002	7.9	7.5
Marie Delmas (G)*	2,207	2002	8.0	7.6
			<u>\$ 1,122.3</u>	<u>\$ 1,172.2</u>

(1) Carrying value, includes unamortized drydocking costs and excludes favorable and unfavorable leases of \$5.0 million, net.

(G) Indicates geared vessel.

\* Indicates vessels for which we believe the market value based on charter attached valuations was lower than the carrying value as at December 31, 2019. We believe that the aggregate carrying value of these vessels at December 31, 2019 exceeded their aggregate market value based on charter attached valuations as at December 31, 2019 by approximately \$102.0 million.

### Share-Based Compensation

We have awarded restricted stock units to certain of our employees. For 2017, 20% of the base compensation paid to our directors was in the form of stock issued under the 2015 Equity Incentive Plan, with the number of stock units issued based on a value of \$2.00 per unit. The accounting fair value of restricted stock unit grants is determined by reference to the quoted stock price on the date of grant, as adjusted for estimated dividends forgone until the restricted stock units vest. Compensation expense is recognized based on a graded expense model over the expected vesting period.

### Recent Accounting Pronouncements

In June 2016, the FASB issued ASU 2016-13, “Financial Instruments—Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments” (“ASU 2016-13”), which amends the impairment model by requiring entities to use a forward-looking approach based on expected losses to estimate credit losses on certain types of financial instruments, including trade receivables. In December 2018, the FASB issued Accounting Standards Update No. 2018-19 “Codification improvements to Topic 326”, which clarifies that impairment of receivables arising from operating leases should be accounted for in accordance with Topic 842, Leases. The ASU 2016-13 is effective for public entities for fiscal years beginning after December 15, 2019, with early adoption permitted. We are currently evaluating the impact of the new standard on our consolidated financial statements.

We do not believe that any other recently issued, but not yet effective, accounting pronouncements would have a material impact on its interim unaudited consolidated financial statements.

### Results of Operations

#### Year ended December 31, 2019 compared to Year ended December 31, 2018

	Year ended December 31,	
	2019	2018
	(in millions of U.S. dollars)	
<b>Operating Revenues</b>		
Time charter revenue	\$ 261.1	\$ 157.1
<b>Operating Expenses</b>		
Vessel operating expenses	(87.8)	(49.3)
Time charter and voyage expenses	(9.0)	(1.6)
Depreciation and amortization	(43.9)	(35.5)
Impairment of vessels	—	(71.8)
General and administrative expenses	(8.8)	(9.2)
Total operating expenses	<u>(149.5)</u>	<u>(167.4)</u>
<b>Operating Income/(Loss)</b>	<u>111.6</u>	<u>(10.3)</u>
<b>Non-Operating Income (Expenses)</b>		
Interest income	1.8	1.4
Interest and other finance expenses	(75.0)	(48.7)
Other income, net	1.5	0.3
Income taxes	<u>0.0</u>	<u>0.0</u>
<b>Net Income/(Loss)</b>	<u>39.9</u>	<u>(57.3)</u>
Earnings allocated to Series B Preferred Shares	<u>(3.1)</u>	<u>(3.1)</u>
<b>Net Income/(Loss) available to Common Shareholders</b>	<u>\$ 36.8</u>	<u>\$ (60.4)</u>

## Operating Revenues

Operating revenues reflect income under fixed rate time charters in effect and were \$261.1 million in the year ended December 31, 2019, an increase of \$104.0 million, or 66.2%, from operating revenues of \$157.1 million for 2018. The increase is mainly due to the full year effect of the acquisition of the Poseidon Fleet, effective November 15, 2018, together with the acquisition of five further containerships in 2019; ownership days in 2019 were 14,326, up 86.7% on 7,675 of 2018. Offsetting the effect of the larger fleet is an increase in offhire and idle time.

There were 806 days offhire through the year, including 537 for five planned vessel upgrades, five completed regulatory drydockings and two in progress as at December 31, 2019. The time taken for drydockings and vessel upgrades has been adversely affected by congestion at Chinese and other shipyards as a result of global scrubber retrofitting. Overall utilization for 2019 was 94.4%. In 2018 overall utilization of 98.7%.

## Total Operating Expenses

Total Operating Expenses totaled \$149.5 million (or 57.3% of operating revenues). Operating expenses, including \$71.8 million charge for impairment, totaled \$167.4 million for the year ended December 31, 2018 (or 106.6% of operating revenues). Excluding impairment, operating expenses for 2018 were \$95.6 million for 2018 (or 60.9% of operating revenue).

Total Operating expenses can be analyzed as follows:

- *Vessel operating expenses:* Vessel operating expenses, which relate to the operation of the vessels themselves, were \$87.8 million for the year ended December 31, 2019 (or 33.6% of operating revenues) compared to \$49.3 million for the year ended December 31, 2018 (or 31.4% of operating revenues). Ownership days in 2019 were 14,326, up 86.7% on 7,675 of 2018. The increase is mainly due to the addition of the Poseidon Fleet from November 15, 2018 and five further ships acquired in 2019. The average cost per ownership day was \$6,128, down \$292, (or 4.5%), from \$6,420 for 2018.
- *Time Charter and voyage expenses:* Time charter and voyage expenses, which comprise mainly commission paid to ship brokers, the cost of bunker fuel for owner's account when a ship is offhire or idle and miscellaneous costs associated with a ship's voyage for the owner's account, were \$9.0 million for the year ended December 31, 2019 (or 3.4% of operating revenues) compared to \$1.6 million for the year ended December 31, 2018 (or 1.0% of operating revenues). The increase was mainly due to the addition of the Poseidon Fleet, all of which incur such commission, compared to our legacy ships, where commission is paid only for those which have completed their initial charters to CMA CGM or OOCL and which have been employed on a new charter obtained with the assistance of a broker.
- *Depreciation and Amortization:* Depreciation and Amortization was \$43.9 million (or 16.8% of operating revenues) for the year ended December 31, 2019, up from \$35.5 million (or 22.6% of operating revenues) in 2018. The increase was mainly due to the addition of the Poseidon Fleet, and five further ships during 2019, offset by the effect of lower book values for a number of ships following an impairment charge in December 2018 as well as a change in estimated scrap value per LWT with effect from January 1, 2019 from \$250 to \$400.
- *Impairment of Vessels:* Whilst charter rates in the spot market and asset values saw improvements through 2019, taking into account the seasonal as well as cyclical nature of the container shipping industry, the recovery was not considered to have been sufficiently sustained not to undertake a review for impairment as at December 31, 2019. No impairment was identified. The impairment review for 2018 resulted in a non-cash impairment charge of \$71.8 million (or 45.7% of operating revenues) being recognized in the quarter ended December 31, 2018.

*General and administrative:* General and administrative expenses were \$8.8 million (or 3.4% of operating revenues) in the year ended December 31, 2019, and were \$9.2 million (or 5.9% of operating revenues) for 2018. The average cost per ownership day was \$615 for the year ended December 31, 2019 compared to \$1,201 per day for the year ended December 31, 2018.

### ***Operating Income/(Loss)***

As a consequence of all preceding items, operating income was \$111.6 million for the year ended December 31, 2019 compared to an operating loss of \$10.3 million for the year ended December 31, 2018.

### ***Interest Income***

Interest income earned on cash balances for the year ended December 31, 2019 was \$1.8 million compared to \$1.4 million in 2018 as average cash balances were higher as were interest rates on deposits.

### ***Interest and other finance expenses***

Interest and other finance expenses for the year ended December 31, 2019 includes interest on debt assumed as a result of the Poseidon transaction on November 15, 2018 together with interest on new borrowings to partly finance the purchase of additional ships and on the 2024 Notes issued from November 19, 2019.

Interest and other finance expenses for the year ended December 31, 2019, was \$75.0 million, up on interest and other finance expenses for the year ended December 31, 2018, of \$48.7 million. The increase is mainly due to the full year effect of the debt assumed in the Poseidon transaction together with interest on new borrowings.

### ***Other income, net***

Other operating income, net represents miscellaneous revenue mainly from carrying passengers and sundry recharges to charterers under our time charters. In the year ended December 31, 2019, other operating income, net was \$1.5 million, up from \$0.3 million in 2018.

### ***Income Taxes***

Income taxes for the years ended December 31, 2019 and 2018 were not material as our vessel owning subsidiaries were subject to taxation based on tonnage rather than accounting profits.

### ***Net Income/(Loss)***

For the year ended December 31, 2019, net income was \$39.9 million, compared a net loss of \$57.3 million, after \$71.8 million non-cash impairment, for the year ended December 31, 2018.

### ***Earnings Allocated to Series B Preferred Shares***

The dividends payable on the \$35.0 million Series B Preferred Shares issued on August 20, 2014 and subsequently issued under our Depositary Shares ATM program, are presented as a reduction of net income, as and when declared by the Board of Directors. These dividends totaled \$3.1 million for each of the years ended December 31, 2019 and 2018.

### ***Net Income/(Loss) Available to Common Shareholders***

Net income available to common shareholders for the year ended December 31, 2019 was \$36.8 million, compared to a net loss available to common shareholders, after \$71.8 million impairment charge, of \$60.4 million for the year ended December 31, 2018.

## ***Year ended December 31, 2018 compared to Year ended December 31, 2017***

For a discussion of our results for the year ended December 31, 2018 compared to the year ended December 31, 2017, please see “Item 5. Operating and Financial Review and Prospects—A. Operating Results—Results of Operations—Year Ended December 31, 2018 Compared to the Year Ended December 31, 2017” contained in our Annual Report on Form 20-F for the year ended December 31, 2018, filed with the SEC on March 29, 2019.

### **B. Liquidity and Capital Resources**

#### **Liquidity, working capital and dividends**

##### ***Overview***

Our net cash flow from operating activities derives from revenue received under our charter contracts, which varies directly with the number of vessels under charter, days on-hire and charter rates, less operating expenses including crew costs, lubricating oil costs, costs of repairs and maintenance, insurance premiums, general and administrative expenses, interest and other financing costs. In addition, each of our vessels is subject to a drydock approximately every five years. Five drydockings were completed in 2019 for regulatory reasons and five for vessel upgrades, the total cost of which, excluding the effect of the associated 537 days of offhire, was \$8.7 million. The duration of drydockings was adversely affected in 2019 by congestion at Chinese and other shipyards as a result of scrubber retrofitting. The average cost of the 23 drydockings completed on vessels in the current fleet between January 2013 and December 2019 was \$1.2 million with an average loss of revenue of \$0.4 million while the relevant vessel was offhire. This amount does not include any allowance for the installation of ballast water treatment systems or other vessel enhancements. Five regulatory drydockings were completed in 2019, two were completed in 2018, and four in 2017. We have included a schedule of the next anticipated drydocking date for each of our vessels in “Item 4. Information on the Company—B. Business—Inspection by Classification Societies.” In future years there will be incremental costs for compliance with ballast water management regulations and with emission control regulations should we decide, in conjunction with our relevant charter, to retrofit scrubbers on our vessels. See “Item 4. Information on the Company—B. Business—Environmental and Other Regulations.”

The main factor affecting operating cash flow in a period is the timing of the receipt of charterhire, which is due to be paid two weeks or one month in advance and, other than from any asset sales and purchases, are the payments for costs of drydockings, the timing of the payment of interest on the 2022 Notes, which is due to be paid semi-annually on May 15 and November 15 each year, and quarterly on our other debt, including on our 2024 Notes, and amortization of our 2022 Notes and other debt.

We are required to repay \$40.0 million in each of the first three years and \$35.0 million annually (the “Repayment Requirement”) thereafter, across both the 2022 Notes and the related secured term loan provided by Citibank (the “Citi Credit Facility”) in accordance with the terms of the Indenture relating to the 2022 Notes. The Citi Credit Facility has minimum fixed amortization whereas, as long as amounts are outstanding under that loan, amortization of the 2022 Notes is at the option of the noteholders. In late 2018, pursuant to the Repayment Requirement, around the first anniversary of the issue of the 2022 Notes, we offered to redeem \$20.0 million nominal amount of the 2022 Notes at a purchase price of 102%. The offer was fully accepted and \$20.0 million nominal amount of the 2022 Notes were redeemed and cancelled. If any portion of the offer had not been accepted, it would have been applied to repay the Citi Credit Facility at par. In late 2019, pursuant to the Repayment Requirement, around the second anniversary of the issue of the 2022 Notes, we offered to redeem a further \$20.0 million of the 2022 Notes at a purchase price of 102%. Noteholders holding approximately \$17.3 million nominal amount of the 2022 Notes accepted the offer and such notes were redeemed and cancelled. The \$2.7 million of the offer not accepted was applied to repay the Citi Credit Facility at par. The minimum repayments of the Citi Credit Facility are four instalments of \$10.0 million semi-annually commencing April 30, 2018, and two subsequent instalments of \$7.4 million; the final maturity date of the loan is no later than October 31, 2020. As of December 31, 2019, \$322.7 million was outstanding on the 2022 Notes and \$12.1 million on the Citi Credit Facility. We are also required to pay a minimum of \$47.5 million of amortization in 2020 on the \$538.3 million outstanding on other secured term loans and minimum amortization of \$47.8 million in 2021.

As indicated in “F. Tabular Disclosure of Contractual Obligations,” below, interest payment obligations for 2020 are \$63.7 million, \$56.7 million for 2021, \$45.2 million for 2022, \$16.0 million for 2024 and \$12.3 million for 2025. The dividend on the \$35.0 million Series B Preferred Shares amounts to \$3.1 million each year.

At December 31, 2019, we had \$912.8 million of debt outstanding, consisting of \$322.7 million under our 2022 Notes which carry interest at a fixed rate of 9.875%, \$38.5 million under our Blue Ocean Credit Facility at a fixed rate of interest of 10.0%, \$39.8 million under our 2024 Notes which carry interest at the fixed rate of 8.00%, and \$511.8 million under our other credit facilities which have floating interest rates at LIBOR plus an average margin of approximately 3.60%. Assuming LIBOR to be 1.0%, quarterly interest on total gross debt at December 31, 2019, without taking into account amortization, would amount to approximately \$15.6 million.

Both the 2022 Notes and the Citi Credit Facility require us to have \$20.0 million minimum liquidity at each quarter end.

In addition, we intend to declare and make quarterly dividend payments amounting to approximately \$0.8 million per quarter on our Series B Preferred Shares on a perpetual basis, based on the amount outstanding as of December 31, 2019. Finally, we may declare and pay dividends on our common shares, subject to any applicable restrictions contained in our current and future agreements governing our indebtedness, including the indenture governing the 2022 Notes and our credit facilities.

Other than costs for drydockings, compliance with environmental regulations and the installation of scrubbers on three vessels, there are no other current material commitments for capital expenditures or other known and reasonably likely material cash requirements other than in respect of our growth strategy.

All our revenues are denominated in U.S. dollars and a portion of our expenses are denominated in currencies other than U.S. dollars. As of December 31, 2019, we had \$147.6 million in cash and cash equivalents, including restricted cash. Our cash and cash equivalents are mainly held in U.S. dollars, with relatively small amounts of UK pounds sterling, Euros and HK dollars. We regularly review the amount of cash and cash equivalents held in different jurisdictions to determine the amounts necessary to fund our operations and their growth initiatives and amounts needed to service our indebtedness and related obligations. If these amounts are moved out of their original jurisdictions, we may be subject to taxation.

Due to our charter coverage and nature of our operating and financial costs, our cashflows are predictable and visible, at least in the near to medium term. We have policies in place to control treasury activities within the group. For example, all new funding must be approved by our Board of Directors, and cash deposits can only be made with institutions meeting certain credit metrics and up to predetermined limits by institution.

Our floating rate debt is represented by drawings under a number of secured credit facilities. We have in the past, and may in the future, enter into hedging instruments, including interest rate swap agreements, to hedge our cash flows. We would not enter into derivatives for trading or speculative purposes.

The table below shows our consolidated cash flows for each of the years ended December 31, 2019, 2018 and 2017:

	Year ended December 31,		
	2019	2018	2017
(in millions of U.S. dollars)			
<b>Cash Flows from Operating Activities</b>			
Net Income / (Loss )	\$ 39.8	\$ (57.3)	\$ (74.2)
<b>Adjustments to Reconcile Net Income / (Loss) to Net Cash Provided by Operating Activities</b>			
Depreciation and amortization	43.9	35.5	38.0
Vessel impairment	—	71.8	87.6
Amortization of deferred financing costs	3.1	4.6	7.8
Amortization of original issue discount/premium on repurchase of notes	1.1	1.2	11.6
Amortization of intangible liability/asset-charter agreements	1.9	(1.3)	(1.8)
Share based compensation	1.7	0.1	0.3
Movement in working capital	1.8	(6.9)	(2.4)
<b>Net Cash Provided by Operating Activities</b>	<b>93.3</b>	<b>47.7</b>	<b>66.9</b>
<b>Cash Flows from Investing Activities</b>			
Acquisition of vessels	(73.0)	(11.4)	—
Net proceeds from sale of vessels	—	14.5	—
Cash paid for vessel expenditures	(9.5)	(0.2)	(0.3)
Advances for vessel acquisitions and other additions	(9.2)	—	—
Cash paid for drydockings	(7.4)	(2.6)	(4.6)
Cash acquired from Poseidon Transaction, net of capitalized expenses	(0.8)	24.0	—
<b>Net Cash (Used in)/Provided by Investing Activities</b>	<b>(99.9)</b>	<b>24.3</b>	<b>(4.9)</b>
<b>Cash Flows from Financing Activities</b>			
Proceeds from issuance of 2022 Notes, net of costs	—	—	356.4
Proceeds from issuance of 2024 Notes, net of costs	39.8	—	—
Deferred financing costs paid	(7.9)	(2.0)	(12.7)
Repayment of refinanced debt	(262.8)	—	—
Repurchase of notes, including premium <sup>(1)</sup>	(17.6)	(20.4)	(374.8)
Proceeds from drawdown of credit facilities	327.5	8.1	54.8
Repayment of credit facilities	(63.5)	(37.8)	(63.5)
Proceeds from offering of Class A common shares, net of costs	50.7	—	—
Proceeds from offering of Series B preferred shares, net of costs	1.0	—	—
Series B preferred shares – dividends paid	(3.1)	(3.1)	(3.1)
<b>Net Cash Provided by/(Used in) Financing Activities</b>	<b>64.1</b>	<b>(55.2)</b>	<b>(42.9)</b>
<b>Net Increase in Cash and Cash Equivalents</b>	<b>57.5</b>	<b>16.8</b>	<b>19.1</b>
<b>Cash and Cash Equivalents and restricted cash at Start of Year</b>	<b>90.1</b>	<b>73.3</b>	<b>54.2</b>
<b>Cash and Cash Equivalents and restricted cash at End of Year</b>	<b>\$ 147.6</b>	<b>\$ 90.1</b>	<b>\$ 73.3</b>

(1) Includes the repurchase of \$17.6 million and \$20.4 million of our 2022 Notes for 2019 and 2018, respectively, and the repurchase in full of \$374.8 million of our prior 10.00% First Priority Senior Secured Notes due 2019, in October 2017.

#### **Year ended December 31, 2019 compared to Year ended December 31, 2018**

Net cash provided by operating activities was \$93.3 million for the year ended December 31, 2019 reflecting mainly net income of \$39.8 million, adjusted for depreciation and amortization of \$43.9 million, amortization of deferred financing costs and original issue discount of \$4.2 million, amortization of intangible liabilities of \$1.9 million, share-based compensation of \$1.7 million, plus movements in working capital, including deferred revenue, of \$1.8 million.

Net cash provided by operating activities for the year ended December 31, 2019 at \$93.3 million was \$45.6 million higher than in 2018 mainly due to the full year effect of the Poseidon Fleet acquired on November 15, 2018, and five further ship additions in 2019 which, inter alia, led to an increase of \$104.0 million operating revenue, \$45.9 million increase in vessel operating and time charter and voyage expenses and an increase of \$26.3 million in net interest expense. In addition, movement in working capital was \$8.7 million higher in 2019 compared to 2018.

Net cash used in investing activities for the year ended December 31, 2019 was \$99.9 million, including \$73.0 million for the purchase of ships, \$18.7 million vessel additions and other advances and \$7.4 million paid for drydockings.

Net cash provided by investing activities in December 31, 2018 was \$24.3 million, including \$24.0 million on completion of the Poseidon Transaction, \$14.5 million proceeds from sale of Argos, offset by \$11.4 million for the purchase of GSL Valerie and \$2.6 million for drydockings.

Net cash provided by financing activities for the year ended December 31, 2019 was \$64.1 million, including \$39.8 million net proceeds from issuing our 2024 Notes, \$327.5 million drawdown of new credit facilities, \$50.7 million net proceeds from issuing Class A common shares and \$1.0 million net proceeds from issuing Series B Preferred Shares under our ATM program offset by \$17.6 million purchase of our 2022 Notes under the mandatory annual offer, \$63.5 million amortization of credit facilities, \$262.8 million repayment of refinanced debt, \$7.9 million deferred financing costs paid and \$3.1 million dividends paid on our Series B Preferred Shares. Net cash used in financing activities for the year ended December 31, 2018 was \$55.2 million, including \$37.8 million repayment of credit facilities, \$20.4 million repayment of the 2022 Notes, \$2.0 million deferred financing costs paid and \$3.1 million dividend paid on the Series B Preferred Shares, offset by \$8.1 million net drawdown from a new secured term loan for partly finance the acquisition of GSL Valerie.

Overall, there was a net increase in cash and cash equivalents and restricted cash of \$57.5 million in the year ended December 31, 2019, resulting in closing cash of \$147.6 million compared to closing cash of \$90.1 million at December 31, 2018.

#### ***Year ended December 31, 2018 compared to Year ended December 31, 2017***

For a discussion of our liquidity and capital resources for the year ended December 31, 2018 compared to the year ended December 31, 2017, please see “Item 5. Operating and Financial Review and Prospects-B. Liquidity and Capital Resources-Liquidity, working capital and dividends-Year Ended December 31, 2018 Compared to Year Ended December 31, 2017” contained in our Annual Report on Form 20-F for the year ended December 31, 2018, filed with the SEC on March 29, 2019.

Our indebtedness as of December 31, 2019 comprised:

<b>Facility</b>	<b>\$ million</b>	<b>Collateral vessels</b>	<b>Interest Rate</b>	<b>Final maturity date</b>
Citi Credit Facility	12.1	GSL Fleet (18 vessels)	LIBOR plus 3.25%	October 31, 2020
Hayfin Credit Facility	7.1	GSL Valerie	LIBOR plus 5.50%	July 16, 2022
DVB Credit Facility†	45.4	Maira, Nikolas, Newyorker, Mary	LIBOR plus 2.85%	December 31, 2020
Deutsche, CIT, HCOB Credit Facility	129.5	Al Khor, Anthea Y, Maira XL	LIBOR plus 3.00%	June 30, 2022
Blue Ocean Junior Credit Facility	35.2	Al Khor, Anthea Y, Maira XL	LIBOR plus 10.00%	June 30, 2022
Hellenic Credit Facility	57.7	GSL Eleni, GSL Kalliopi, GSL Grania, GSL Christel Elisabeth, GSL Vinia	LIBOR plus 3.90%	May 24, 2024
Senior Syndicated Facility	224.8	Orca I, Katherine, Dolphin II, Athena, Kristina, Agios Dimitrios, Alexandra, Alexis, Olivia	LIBOR plus 3.00%	September 24, 2024
Junior Syndicated Facility	38.5	Orca I, Katherine, Dolphin II, Athena, Kristina, Agios Dimitrios, Alexandra, Alexis, Olivia	10.00%	September 24, 2024
2022 Notes	322.7	GSL Fleet (18 vessels)	9.875%	November 15, 2022
2024 Notes	39.8	(Unsecured)	8.00%	December 31, 2024
<b>TOTAL</b>	<b>912.8</b>			

† This facility was refinanced on February 13, 2020 by Tranche B of the Senior Syndicated Facility and a new \$9.0 million facility secured by three vessels.



## Notes

### **8.00% Senior Unsecured Notes due 2024**

On November 19, 2019, we issued \$27.5 million aggregate principal amount of 8.00% Senior Unsecured Notes due 2024 (the “2024 Notes”) in an underwritten public offering. On November 27, 2019, we issued an additional \$4.1 million aggregate principal amount of 2024 Notes pursuant the underwriters’ exercise of their option to purchase such additional 2024 Notes.

On November 27, 2019, we entered into an “At Market Issuance Sales Agreement” with B. Riley FBR, Inc. (the “Agent”) pursuant to which we may sell, from time to time, up to an additional \$68.0 million of 2024 Notes (the “2024 Notes ATM Program”). As of December 31, 2019, we had issued and sold approximately \$8.1 million aggregate principal amount of 2024 Notes under the 2024 Notes ATM Program.

Interest on the 2024 Notes is payable on the last day of February, May, August and November of each year commencing on February 29, 2020 and the 2024 Notes have a maturity date of December 31, 2024.

We have the option to redeem the 2024 Notes for cash, in whole or in part, at any time (i) on or after December 31, 2021 and prior to December 31, 2022, at a price equal to 102% of the principal amount, (ii) on or after December 31, 2022 and prior to December 31, 2023, at a price equal to 101% of the principal amount and (iii) on or after December 31, 2023 and prior to maturity, at a price equal to 100% of the principal amount.

As of December 31, 2019, the total outstanding aggregate principal amount of the 2024 Notes was \$39.8 million.

### **9.875% First Priority Secured Notes due 2022**

On October 31, 2017, we issued \$360.0 million in aggregate principal amount of 9.875% First Priority Secured Notes due 2022 (the “2022 Notes”) in a private placement. The 2022 Notes mature on November 15, 2022. Proceeds after the deduction of the original issue discount, but before expenses, amounted to \$356.4 million.

The 2022 Notes bear interest at a coupon rate of 9.875% per annum and is payable semi-annually on May 15 and November 15 of each year, commencing on May 15, 2018. As of December 31, 2019, the 2022 Notes were secured by first priority ship mortgages on 18 of our vessels in the GSL Fleet and by assignments of earnings and insurances, pledges over certain bank accounts, as well as share pledges over each subsidiary owning a Mortgaged Vessel. In addition, the 2022 Notes are fully and unconditionally guaranteed, jointly and severally, by our relevant 18 vessel owning subsidiaries and Global Ship Lease Services Limited. The indenture governing the 2022 Notes require us to have a minimum cash balance of \$20.0 million on each test date, being March 31, June 30, September 30 and December 31 in each year.

We are required to repay \$40.0 million each year for the first three years and \$35.0 million thereafter (the “Repayment Requirement”), across both the 2022 Notes and the Citibank Super Senior Term Loan (“Citi Credit Facility”). See “—\$54.8 Million Citi Credit Facility” below. The Citi Credit Facility has minimum fixed amortization whereas as long as amounts are outstanding under the Citi Credit Facility, amortization of the 2022 Notes is at the option of the noteholders, who can accept or reject an annual tender offer which we are obliged to make. In December 2018, pursuant to the Repayment Requirement, the tender offer was accepted in full and we repurchased \$20.0 million nominal amount of the 2022 Notes at a purchase price of 102%. In December 2019, pursuant to the Repayment Requirement, the tender offer of \$20.0 million was partially accepted by the noteholders and we repurchased \$17.3 million of the 2022 Notes at a purchase price of 102%. In accordance with the terms of the Citi Credit Facility and indenture governing the 2022 Notes, the balance of the offer of \$2.7 million was applied to repay the Citi Credit Facility.

On December 20, 2018, we entered into a First Supplemental Indenture of the 2022 Notes under which the date beginning on which we are permitted to pay dividends to common shareholders in an aggregate amount per year equal to 50% of our consolidated net profit after taxes for the preceding financial year, was brought forward from January 1, 2021 to January 1, 2020. Also, certain restrictions were agreed in the increase in the permitted transfer basket and the immediate increase in dividend capacity as a result of completing the Poseidon Transaction, and certain other provisions of the Indenture, among other things, the restricted payment covenant, the arm’s length transaction covenant and the reporting covenant were amended.

During the first quarter of 2020, we entered into a series of supplemental indentures to the indenture governing the 2022 Notes in connection with the change of jurisdiction of certain of our subsidiary guarantors thereunder.

## Optional Redemption

We may redeem the 2022 Notes in whole or in part, at our option, at any time at the redemption prices (expressed as percentages of principal amount) set forth below plus accrued and unpaid interest, if any, on the 2022 Notes redeemed, to the applicable redemption date, if redeemed during the twelve-month period beginning on November 15 of the years indicated below, subject to the rights of holders of 2022 Notes on the relevant record date to receive interest on the relevant interest payment date:

<u>Year</u>	<u>Percentage</u>
2019	104.938%
2020	102.469%
2021	100.000%

As of December 31, 2019, the outstanding balance on the 2022 Notes was \$322.7 million. On February 10, 2020, we effected an optional redemption of \$46.0 million principal amount of the 2022 Notes at a purchase price 104.938% of the principal amount redeemed plus accrued and unpaid interest, bringing the aggregate principal amount outstanding following the redemption to \$276.7 million.

## Credit Facilities

### ***\$54.8 million Citi Credit Facility***

On October 26, 2017, and in connection with our 2022 Notes, we entered into a \$54.8 loan facility with Citibank N.A., which we refer to as the Citi Credit Facility. The proceeds of this facility were used, together with the proceeds of our 2022 Notes and cash on hand, to refinance our 10.00% first priority secured notes due 2019 and other debt then outstanding. The term loan matures on October 31, 2020. The term loan is cross-collateralized on a first priority basis with the collateral under our 2022 Notes, including 18 vessels in the GSL Fleet. The loan is payable semi-annually in instalments of \$10.0 million resulting in minimum repayment of \$20.0 million in each of the first and second years with the balance of the Citi Credit Facility to be repaid in the third year. Amortization may be accelerated, as described above in “—Indebtedness—Notes—9.875% First Priority Secured Notes due 2022.”

The term loan bears interest at LIBOR plus a margin of 3.25%.

As of December 31, 2019, the outstanding balance of the Citi Credit Facility was \$12.1 million.

### ***\$65.0 million Hayfin Credit Facility***

In September 2018, we entered into a \$65.0 million facility agreement with Hayfin Services LLP, as agent and service agent, and certain other financial institutions, which we refer to as the Hayfin Credit Facility. The Hayfin Credit Facility provides for a secured term loan of up to \$65.0 million, which was available for drawing until May 10, 2019, and matures on July 16, 2022. The proceeds of this loan were to be used to finance our acquisition of feeder container vessels with carrying capacities of 1,000 to 3,600 TEU, with such borrowed amounts not to exceed the lower of scrap value, calculated at \$400 per lightweight tonne and 65% of the charter free market value of the vessel to be acquired. On September 10, 2018, we drew down approximately \$8.1 million in connection with our acquisition of GSL Valerie.

The facility bears interest at LIBOR plus a margin of 5.50%.

As of December 31, 2019, the outstanding balance of the Hayfin Credit Facility was \$7.1 million.

### ***\$52.6 million DVB Credit Facility***

In connection with the Poseidon Transaction, we assumed debt outstanding of \$51.1 million related to the vessels Maira, Nikolas, Newyorker and Mary, provided by DVB Bank SE (“DVB”). The facility agreement, which we refer to as the DVB Credit Facility, is dated July 18, 2017, with an initial drawdown amount of \$52.6 million and final maturity of December 31, 2020.

The DVB Credit Facility has a repayment schedule, along with a cash sweep clause, whereby excess cash flows will be used against the outstanding balance of the facility and will be specifically applied to the prepayment of the balloon instalment up to a specific amount. Tranches A and B, each amounting to \$5.5 million, are scheduled to be repaid in four consecutive quarterly instalments of \$0.3 million starting from March 31, 2020 and a balloon payment of \$4.4 million payable on December 31, 2020. Tranche C, amounting to \$5.8 million, is scheduled to be repaid in four consecutive quarterly instalments of \$0.3 million starting from March 31, 2020 and a balloon payment of \$4.7 million payable on December 31, 2020. Tranche D, of the remaining \$35.8 million, is scheduled to be repaid in four consecutive quarterly instalments of \$1.1 million starting from March 31, 2020 and a balloon payment of \$31.5 million payable also on December 31, 2020. In addition, certain financial covenants will apply starting from January 1, 2020.

The DVB Credit Facility bears interest at LIBOR plus a margin of 2.85% per annum.

As of December 31, 2019, the outstanding balance on the DVB Credit Facility was \$45.4 million.

On February 13, 2020, the DVB Credit Facility was fully refinanced through the utilization of the \$38.0 million Tranche B of the Senior Syndicated Facility, and an additional facility of \$9.0 million which we entered into with an international bank in February 2020 and which is secured by mortgages over the vessels Maira, Nikolas and Newyorker.

### ***\$180.5 million Deutsche, CIT, HCOB, Entrust, Blue Ocean Credit Facility***

In connection with the Poseidon Transaction, we assumed debt outstanding of \$180.5 million relating to the vessels UASC Al Khor, Maira XL and Anthea Y provided by Deutsche Bank AG. The agreement is dated November 9, 2018, with initial drawdown amount of \$180.5 million and final maturity of June 30, 2022.

On December 31, 2018, the borrowers entered into a deed of amendment and restatement with the bank. Based on this restatement there was a re-tranche of the facility such that it was split into a senior facility in an amount of \$141.9 million (“Senior Facility”) and a junior facility in an amount of \$38.6 million (“Blue Ocean Junior Facility”). The lenders of the Senior Facility are Deutsche Bank AG, Hamburg Commercial Bank AG (“HCOB”) and CIT Bank N.A and the lenders of the Blue Ocean Junior Facility are Blue Ocean GP LLC, Blue Ocean Income Fund LP, Blue Ocean Onshore Fund LP, Entrustpermal ICAV, Blue Ocean Investments SPC one and Blue Ocean Investments SPC. The final maturity of both Facilities (Senior and Blue Ocean Junior) is June 30, 2022. In addition to the repayment schedule, a cash sweep mechanism based on a DSCR ratio of 1.10:1 (DSCR ratio is the ratio of Cash Flow to the Cash Flow Debt Service) will apply pro rata against the Senior Facility and the Blue Ocean Junior Facility.

#### *Senior Facility*

The Senior Facility is comprised of three tranches. Tranche A relates to Al Khor and is scheduled to be repaid in 14 instalments of \$0.9 million with the first such instalment due three months from the utilization date, and a final instalment of \$35.1 million. Tranche B relates to Anthea Y and is scheduled to be repaid in 14 instalments of \$0.9 million, the first such instalment due three months from the utilization date, and a final instalment of \$35.2 million. Tranche C relates to Maira XL and is scheduled to be repaid in 14 instalments of \$0.9 million, the first such instalment due three months from the utilization date, and a final instalment of \$35.3 million.

The Senior Facility bears interest at LIBOR plus 3.00% payable quarterly in arrears.

As of December 31, 2019, the outstanding balance on the Senior Facility was \$129.5 million.

#### *Blue Ocean Junior Facility*

The Blue Ocean Junior Facility is comprised of in three Tranches. Tranche A relates to Al Khor and is scheduled to be repaid in 14 instalments of \$0.2 million, the first such instalment due three months from the utilization date, and a final instalment of \$9.6 million. Tranche B relates to Anthea Y and is scheduled to be repaid in 14 instalments of \$0.2 million, the first such instalment due three months from the utilization date, and a final instalment of \$9.6 million. Tranche C relates to Maira XL and is scheduled to be repaid in 14 instalments of \$0.2 million, the first such instalment due three months from the utilization date, and a final instalment of \$9.6 million.

The Blue Ocean Junior Facility bears interest at LIBOR plus 10.00% payable quarterly in arrears.

As of December 31, 2019, the outstanding balance on the Blue Ocean Junior Facility was \$35.2 million.

#### ***\$59.0 million Hellenic Bank Credit Facility***

On May 23, 2019, we entered into a facility agreement with Hellenic Bank Public Company Limited for an amount up to \$37.0 million, which we refer to as the Hellenic Credit Facility. Borrowings under the Hellenic Credit Facility were available in tranches and were used in connection with the acquisition of the GSL Eleni, GSL Kalliopi and GSL Grania. We drew down on an initial tranche of \$13.0 million on May 24, 2019, in connection with the acquisition of the GSL Eleni. The first tranche is repayable in 20 equal quarterly instalments of \$0.5 million each with a final balloon payment of \$4.0 million payable together with the final instalment. We drew down a second tranche of \$12.0 million on September 4, 2019, in connection with the acquisition of the GSL Grania. The second tranche is repayable in 20 equal quarterly instalments of \$0.4 million each with a final balloon payment of \$4.0 million, payable together with the final instalment. The third tranche of \$12.0 million was drawn on October 3, 2019, in connection with the acquisition of GSL Kalliopi. The third tranche is repayable in 20 equal quarterly instalments of \$0.4 million each with a final balloon payment of \$4.0 million payable together with the final instalment.

On December 10, 2019, we entered into an amended and restated loan agreement with Hellenic Bank for an additional facility of amount \$22.0 million that was to be borrowed in two tranches and was to be used in connection with the acquisition of the vessels Verdi (renamed GSL Vinia) and GSL Christel Elisabeth. Both additional tranches were drawn on December 10, 2019. Each tranche is repayable in 20 equal quarterly instalments of \$0.4 million each with a final balloon payment of \$3.5 million payable together with the final instalment.

The Hellenic Credit Facility bears interest at LIBOR plus a margin of 3.90% per annum. As of December 31, 2019, the outstanding balance of the Hellenic Credit Facility was \$57.7 million.

#### ***\$268.0 million Syndicated Senior Secured Credit Facility***

On September 19, 2019, we entered into a new syndicated \$268.0 million senior secured credit facility comprised of two tranches (the "Senior Syndicated Facility") with Crédit Agricole Corporate and Investment Bank, ABN AMRO BANK N.V., CIT Bank N.A, Siemens Financial Services, Inc, Bank SINOPAC CO. LTD, CTBC Bank CO., LTD. and Banque Palatine. The first tranche of the Senior Syndicated Facility of \$230.0 million was drawn down, in full, and the proceeds were used to refinance five of our senior credit facilities existing at the time with maturities in December 2020 and April 2021 (the "First Tranche Refinancing"). The senior credit facilities that were refinanced were our \$65.3 million ABN AMRO Bank Credit Facility, \$17.1 million Amsterdam Trade Bank N.V. Credit Facility, \$80.0 million Crédit Agricole Credit Facility, \$24.5 million Blue Ocean Credit Facility and \$55.7 million Crédit Agricole Credit Facility. As a result of the First Tranche Refinancing, three 2000-built 6,000 TEU ships, Tasman, Dimitris Y and Ian H, became unencumbered. The second tranche of up to \$38.0 million is available to us on similar terms until May 2020 to facilitate further refinancing. The final maturity date of the Senior Syndicated Facility is September 2024, five years after drawdown. Borrowings under the Senior Syndicated Facility bear interest at LIBOR plus a margin of 3.00% and the scheduled amortization of the first tranche is \$5.2 million per quarter plus a balloon payment of \$126.0 million.

As of December 31, 2019, the outstanding balance of the Senior Syndicated Facility was \$224.8 million.

Tranche B amounts to \$38.0 million and was committed for eight months after the signing of the loan agreement. Upon draw down, Tranche B is scheduled to be repaid in 20 consecutive quarterly instalments of \$1.0 million and a balloon payment of \$18.0 million payable in the termination date on the fifth anniversary from the utilization date of Tranche A, which falls in September 24, 2024. On February 13, 2020, Tranche B was fully drawn to refinance the DVB Credit Facility.

The interest rate is LIBOR plus a margin of 3.00% and is payable at each quarter end date.

### ***\$38.5 million Junior Syndicated Facility***

On September 19, 2019, we also refinanced all of the existing indebtedness under our \$38.5 million Blue Ocean Credit Facility (the “Junior Syndicated Facility”), with the only change being to extend the maturity from September 2023 to September 2024, consistent with the maturity date of the Senior Syndicated Facility. The other terms of the Junior Syndicated Facility remain consistent with the original \$38.5 million Blue Ocean Credit Facility, bearing interest at 10.00% and repayable in one balloon payment upon maturity.

As of December 31, 2019, the outstanding balance of the Junior Syndicated Facility was \$38.5 million.

### ***Covenants***

Certain of our credit facilities have financial covenants, which require us to maintain, on borrowers or subholding level, among other things:

- minimum consolidated liquidity of not less than \$12.5 million, or an average of \$300,000 per vessel, whichever is higher;
- minimum net worth of not less than \$50.0 million;
- minimum market value of collateral for each credit facility, such that the aggregate market value of the vessels collateralizing the particular credit facility is between 125% and 135%, depending on the particular facility, of the aggregate principal amount outstanding under such credit facility, or, if we do not meet such threshold, to provide additional security to eliminate the shortfall; and

The agreements governing our indebtedness also contain undertakings limiting or restricting us from, among other things:

- incurring additional indebtedness or issuing certain preferred stock;
- making any substantial change to the general nature of our business;
- paying dividends on or repaying or distributing any dividend or share premium reserve;
- redeeming or repurchasing capital stock;
- creating or impairing certain securities interests, including liens;
- transferring or selling certain assets;
- entering into certain transactions other than arm’s length transactions;
- acquiring a company, shares or securities or a business or undertaking;
- entering into any amalgamation, demerger, merger, consolidation or corporate reconstruction, or selling all or substantially all of our properties or assets;

- experiencing any change in the position of Executive Chairman; and
- changing the flag, class or technical or commercial management of the vessel mortgaged under such facility or terminating or materially amending the management agreement relating to such vessel.

Our secured credit facilities are generally secured by, among other things:

- a first priority mortgage over the relevant collateralized vessels;
- first priority assignment of earnings and insurances from the mortgaged vessels;
- pledge of the earnings account of the mortgaged vessel;
- pledge of the equity interest of each of the vessel-owning subsidiaries; and
- corporate guarantees.

## **Debt Repaid in 2019**

### ***\$65.3 million ABN AMRO Bank Credit Facility***

In connection with the Poseidon Transaction, we assumed debt outstanding of \$64.3 million relating to Orca II and Katherine provided by ABN AMRO Bank N.V. The agreement was dated August 30, 2017, with initial drawdown amount of \$65.3 million and final maturity of December 31, 2020.

The facility had a repayment schedule, along with a cash sweep clause, whereby the excess cash flows would be used against the outstanding balance on the facility and would be specifically applied to the prepayment of the balloon instalment up to a specific amount. The facility was scheduled to be repaid in four consecutive instalments in the amount of \$1.1 million starting from March 31, 2020 plus a balloon instalment of \$60.8 million on December 31, 2020.

This facility carried interest at LIBOR plus a margin of 3.42% per annum up to March 31, 2019 and afterwards 3.50% per annum.

This facility was refinanced by the Senior Syndicated Facility on September 24, 2019.

### ***\$17.1 million Amsterdam Trade Bank N.V. Credit Facility***

In connection with the Poseidon Transaction, we assumed debt outstanding of 17.1 million relating to Tasman, Dimitris Y and Ian H provided by Amsterdam Trade Bank N.V. The agreement was dated October 9, 2018 with initial drawdown amount of \$17.1 million divided in three tranches of \$5.7 million each and final maturity of December 31, 2020.

The facility had a repayment schedule along with a cash sweep clause, whereby the excess cash flows would be used against the outstanding balance on the facility and would be specifically applied to the prepayment of the balloon instalment up to a specific amount. Each Tranche was scheduled to be repaid in four consecutive quarterly instalments of \$110,000 each, with the first being due on March 31, 2020 and the final together with a balloon payment of \$5.3 million on December 31, 2020.

This facility carried interest at LIBOR plus a margin of 3.90% per annum.

This facility was refinanced by the Syndicated Senior Secured Facility on September 24, 2019.

***\$80.0 million Credit Agricole Credit Facility***

In connection with the Poseidon Transaction, we assumed debt outstanding of \$80.0 million relating to Alexandra, Alexis (previously named UASC Bubiyan) and Olivia I (previously named UASC Yas) provided by Credit Agricole. The agreement was dated October 3, 2018, with initial drawdown amount of \$80.0 million and final maturity of June 30, 2020.

The Facility was to be repaid in 10 equal quarterly instalments of \$1.5 million each, the first such instalment due three months from the utilization date, plus a final balloon of \$65.0 million payable together with the final instalment.

This facility carried interest at LIBOR plus a margin of 3.00% per annum for the first 6 months, 3.25% for the following 12 months and 3.50% thereafter payable quarterly in arrears.

This facility was refinanced by the Senior Syndicated Facility on September 24, 2019.

***\$24.5 million Blue Ocean Credit Facility***

In connection with the Poseidon Transaction, we assumed debt outstanding of \$24.2 million relating to Agios Dimitrios provided by Blue Ocean Income Fund LP, Blue Ocean Onshore Fund LP, Blue Ocean Investments SPC One and Blue Ocean Investments SPC Three. The agreement was dated August 11, 2017, with initial drawdown amount of \$24.5 million and final maturity of December 31, 2020.

The facility had a repayment schedule, along with a cash sweep clause, whereby the excess cash flows would be used against the outstanding balance on the facility and would be specifically applied to the prepayment of the balloon instalment up to a specific amount. The facility was scheduled to be repaid in four consecutive quarterly instalments of \$0.6 million starting from March 31, 2020 and a balloon payment of \$21.9 million payable on December 31, 2020.

This facility carried interest on \$18.8 million of principal at LIBOR plus a margin of 4.00% per annum.

This facility was refinanced by the Senior Syndicated Facility on September 24, 2019.

***\$55.7 million Credit Agricole Credit Facility***

In connection with the Poseidon Transaction, we assumed debt outstanding of \$54.0 million relating to Dolphin II, Kristina and Athena, provided by Credit Agricole Corporate and Investment Bank ("Credit Agricole"). The agreement was dated August 11, 2017, with initial drawdown amount of \$55.7 million and final maturity of December 31, 2020.

The facility had a repayment schedule, along with a cash sweep clause, whereby the excess cash flows would be used against the outstanding balance of the facility and would be specifically applied to the prepayment of the balloon instalment up to a specific amount. Tranche A, amounting to \$19.4 million, was scheduled to be repaid in four consecutive quarterly instalments of \$0.3 million starting from March 31, 2020 and a balloon payment of \$18.0 million payable on December 31, 2020. Tranche B, amounting to \$10.5 million, was scheduled to be repaid in four consecutive quarterly instalments of \$0.2 million starting from March 31, 2020 and a balloon payment of \$9.7 million payable on December 31, 2020. Tranche C, amounting to \$25.8 million, was scheduled to be repaid in four consecutive quarterly instalments of \$0.8 million starting from March 31, 2020 and a balloon payment of \$22.4 million payable also on December 31, 2020. In addition, certain financial covenants will apply starting from January 1, 2020.

This facility carried interest at LIBOR plus a margin of 2.75% per annum.

This facility was refinanced by the Senior Syndicated Facility on September 24, 2019.

### ***Leverage***

As of December 31, 2019, we had \$912.8 million of debt outstanding of which \$322.7 million was for our 2022 Notes which carry interest at a fixed rate of 9.875%, \$38.5 million was provided by Blue Ocean at a fixed rate of interest of 10.0%, \$39.8 million was for our 2024 Notes which carry interest at the fixed rate of 8.00% and \$511.8 million was floating rate debt across a number of facilities and bearing interest at LIBOR plus an average margin of approximately 3.60%.

Our liquidity requirements are significant, primarily due to drydocking costs and debt service requirements. As indicated in “—F. Tabular Disclosure of Contractual Obligations,” below, minimum amortization of debt in 2020 totals \$87.5 million and interest is \$63.7 million. The table shows minimum amortization of debt of \$521.2 million for 2021 and 2022; interest in that period would be \$101.9 million. The table shows minimum amortization of debt of \$302.6 million for 2023 and 2024; interest in that period would be \$28.3 million.

We believe that funds generated by the business and retained will be sufficient to meet our operating needs for the next twelve months following the issuance of this Form 20-F, including working capital requirements, drydocking costs, interest and debt repayment obligations.

As market conditions warrant, we may from time to time, depending upon market conditions and the provisions of the indenture governing the 2022 Notes and of the agreement governing the Citi Credit Facility, seek to repurchase debt securities that we have issued or repay loans that we have borrowed, including the 2022 Notes and borrowings under our other credit facilities, in privately-negotiated or open market transactions, by tender offer or otherwise.

### ***Working capital and dividends***

Our net cash flows from operating activities depend on the number of vessels under charter, days on-hire, vessel charter rates, operating expenses, drydock costs, interest and other financing costs including amortization and general and administrative expenses. Pursuant to our ship management agreements, we have agreed to pay our ship managers an annual management fee per vessel and to reimburse them for operating costs they incur on our behalf. Charterhire is payable by our charterers 15 days in advance and estimated ship management costs are payable monthly in advance. Although we can provide no assurances (see “Item 3. Key Information—D. Risk Factors—Risks Related to our Business—We are highly dependent on charter payments from CMA CGM”), we expect that our cash flow from our chartering arrangements will be sufficient to cover our ship management costs and fees, interest payments under the Notes and our other borrowings, amortization, insurance premiums, vessel taxes, general and administrative expenses, dividends on our Series B Preferred Shares and other costs and any other working capital requirements for the short and medium term and planned drydocking expenses.

We estimate that the average cost of each of the 23 drydockings completed on vessels in the fleet between January 2013 and December 2018 was \$1.2 million, with an average loss of revenue of \$0.4 million from offhire. We have included a schedule of the next anticipated drydocking date for each of our vessels in the section of this Annual Report entitled “Item 4. Information on the Company—B. Business Overview—Inspection by Classification Societies.”

Our other liquidity requirements include a requirement to pay \$40.0 million of amortization, across both the 2022 Notes and the Citi Credit Facility in 2020. Thereafter, the amortization requirement falls to \$35 million per annum. Finally, the dividend on the \$35.0 million Series B Preferred Shares outstanding as at December 31, 2019 amounts to \$3.1 million each year. In addition to funds generated by the business, we may require new borrowings, issuances of equity or other securities, or a combination of the former and the latter to purchase additional vessels and will likely require such further funding to meet all of our repayment obligations under the 2022 Notes and other borrowings.



### C. Research and Development

None.

### D. Trend Information

*All of the information and data presented in this section, including the analysis of the container shipping industry, has been provided by MSI. MSI has advised that (i) some information in MSI's database is derived from estimates derived from industry sources or subjective judgments, (ii) the information in the databases of other maritime data collection agencies may differ from the information in MSI's database, (iii) whilst MSI has taken reasonable care in the compilation of the statistical and graphical information and believes it to be accurate and correct, data compilation is subject to limited audit and validation procedures and may accordingly contain errors, (iv) MSI, its agents, officers and employees cannot accept liability for any loss suffered in consequence of reliance on such information or in any other manner, and (v) the provision of such information does not obviate any need to make appropriate further inquiries.*

Containerization is the most convenient and cost-effective way to transport a wide range of cargoes, predominantly a diverse selection of consumer, manufactured, and semi-manufactured goods. Furthermore, emissions per ton-mile of cargo carried compare favorably to other existing modes of transport. The first containerized cargoes were shipped in the mid-1950s; global containerized trade volumes for 2019 are estimated to be 212 million TEU.

The containerized supply chain extends throughout the world. The Mainlane trades are those linking the major manufacturing economies in Asia with the major consumer economies in North America and Europe and the trans-Atlantic trade. However, over 70% of global containerized trade volumes are in the non-Mainlane trades, with intra-regional trades alone representing almost 40%. The largest trade grouping comprises the intra-Asian trades connecting that region's rapidly growing markets.

Growth in containerized trade is linked to consumer-led demand for manufactured goods and thereby to regional economic growth. Historically, underlying growth has been boosted by both the containerization of breakbulk goods, including refrigerated cargoes, and the relocation of manufacturing from developed economies such as those in Europe and North America, to lower cost regions, most notably in Asia. Of these, the continued containerization of refrigerated (or 'reefer') cargoes is expected to outpace overall container trade growth.

From 1993 to 2008, containerized trade grew at a compound annual rate of over 9.0%, driven by China's infrastructural investment growth and integration into the global trade system, macroeconomic and construction booms in the United States and Western Europe, the off-shoring of production, and the expansion of global supply chains. 2009, due to the global financial crisis and recession, was the only year of negative growth in the industry's history, with volumes shrinking 8.0%. Volumes recovered in 2010, with growth of 15.0%. Between 2011 and 2018 average compound annual growth of containerized trade was 3.5%. Full year growth in 2019 is estimated at 2.0%, despite negative sentiment resulting from trade tensions between the U.S. and China.

The rapid expansion in containerized trade also led to a rapid expansion in the global containership fleet, of which the vast majority of vessels are fully cellular containerships (ships specialized for the transport of containers and fitted with cell guides throughout the ship to optimize container stowage and significantly enhance the efficiency of load and discharge operations). At the same time, liner shipping companies have sought to reduce slot costs (unit costs) through economies of scale achievable with ever larger ships.

Between 1995 and 2008, the nominal carrying capacity of the industry-wide fully cellular fleet grew by a compound annual rate of 11.4%; and from 2009 through 2018 at 6.1%, as the industry digested the legacy, pre-crisis orderbook. In 2019, supply is estimated to have expanded by 4.0% and, as of December 31, 2019, the containership fleet stood at approximately 5,300 ships, with an aggregate capacity estimated at 22.9 million TEU – over half of which is chartered in from containership owners like GSL.

In December 2008, the orderbook was estimated to represent over 60% of existing global capacity. Since then, however, the industry has been adjusting to lower demand growth, capital constraints, and consolidation. By the end of 2019, the overall orderbook-to-fleet ratio was down to 10.9%; for ships between 2,000 TEU and 9,999 TEU, it was 2.5%.

Vessel newbuilding prices, secondhand values and charter rates have tended to be closely correlated and are all strongly influenced by the dynamics of supply and demand, combined with sentiment. From 2000 through 2019, the average newbuilding price for a theoretical 3,500 – 3,600 TEU containership was around \$44 million, with prices ranging between \$33 million (2016) and \$63 million (2007). During the same period, secondhand values for a 10-year old ship of similar size averaged around \$23 million and ranged between \$5 million (2016) and \$50 million (2007). Meantime, spot market charter rates for such tonnage averaged about \$17,150 per day and ranged between \$5,500 (2016) and \$38,450 (2005). In January 2020, prevailing spot market charter rates were around \$10,550 per day, with newbuilding prices at approximately \$42 million and secondhand values for a 10 year old ship at about \$9 million.

The containership market is currently responding to changes to the global regulations that govern vessel sulfur emissions. Sulfur dioxide (SO<sub>x</sub>) is produced as a by-product of burning conventional bunker fuels, and successive rounds of legislation set by the IMO have focused on reducing the associated air pollution. Under regulations in place prior to January 1, 2020, vessels could consume bunker fuel with a maximum sulfur content of 3.5% (except in certain coastal areas, where the limit was 0.1% sulfur content). From January 1, 2020, under IMO 2020, the maximum sulfur content of bunker fuel has been reduced to 0.5%. This applies globally and across the merchant shipping fleet, and not only to containerships.

Vessel owners and operators have three broad options to comply with the new regulations. The default is to consume bunker fuel with 0.5% sulfur content; an alternate is to install exhaust gas cleaning technology (“scrubbers”) that removes (or “scrubs”) the sulfur dioxide content from a vessel’s exhaust emissions; a third possibility is to switch to an alternate fuel source, such as LNG (an option which is realistically only available for newbuildings). It should be noted that, under time charter contracts, which are the most common contractual arrangements in the containership chartering space, fuel cost is for the account of and the responsibility of the charterer, rather than the containership owner. The pricing spread between “new” Low Sulfur Fuel Oil and “old” (lower cost) High Sulfur Fuel Oil has prompted the installation of scrubbers on part of the containership fleet. The pricing spread is expected to become increasingly narrow over time.

Early 2020 has also seen the appearance of the novel coronavirus (COVID-19) pandemic, beginning in China and spreading to most other areas of the world. The pandemic has resulted in the implementation of numerous actions by governments and governmental agencies in an attempt to mitigate the spread of the virus, which has in turn resulted in a significant reduction in global economic activity and extreme volatility in the financial markets. The longer-term implications of this pandemic on container shipping are, as yet, unclear.

#### E. Off-Balance Sheet Arrangements

We do not have any off-balance sheet arrangements that have or are reasonably likely to have a current or future effect on our financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources that is material to investors.

#### F. Tabular Disclosure of Contractual Obligations

The contractual obligations presented below represent our estimates of future payments under fixed contractual obligations and commitments as of December 31, 2019. These amounts do not include dividends on the Series B Preferred Shares which currently amount to \$3.1 million annually. Changes in our business needs or in interest rates, as well as actions by third parties and other factors, may cause these estimates to change. These estimates are necessarily subjective and our actual payments in future periods are likely to vary from those presented in the table.

	<u>Less than 1 year</u>	<u>1-3 years</u>	<u>3-5 years</u>	<u>More than 5 years</u>	<u>Total</u>
	(in millions of U.S. dollars)				
Long-term debt obligations, excluding interest <sup>(1)</sup>	\$ 87.5	\$ 521.2	\$ 302.6	\$ 1.5	\$ 912.8
Interest on long-term debt <sup>(2)</sup>	63.7	101.9	28.3	—	193.9
Ship management agreements <sup>(3)</sup>	14.1	16.2	3.0	—	33.3
<b>Total</b>	<b><u>\$ 165.3</u></b>	<b><u>\$ 639.3</u></b>	<b><u>\$ 333.9</u></b>	<b><u>\$ 1.5</u></b>	<b><u>\$ 1,140.0</u></b>

- (1) Consists of total debt outstanding as of December 31, 2019 of \$322.7 million aggregate principal amount of the 2022 Notes, \$12.1 million under our Citi Credit Facility, \$7.1 million under the Hayfin Credit Facility, \$473.4 million under the Poseidon credit facilities (comprised of the DVB Facility, Deutsche, CIT, Entrust Credit Facility, Blue Ocean Junior Facility, Senior Syndicated Facility and Junior Syndicated Facility), \$57.7 million under the Hellenic Credit Facility and \$39.8 million under our 2024 Notes. The table reflects the annual redemption of the 2022 Notes and amortization of the Citi Credit Facility, as relevant, as well as the scheduled fixed amortization and final repayments of all other credit facilities, excluding future cash sweeps other than the sweeps paid in the first and to be paid in the second quarter 2020 reflecting excess cash generated in third and fourth quarter 2019, as defined in the relevant credit facilities.
- (2) Represents aggregate interest payments at the fixed rate of 9.875% on the 2022 Notes, at the fixed rate of 8.00% on the 2024 Notes and at the fixed rate of 10.00% on the Junior Syndicated Facility and on all of our floating rate debt at the relevant margin plus LIBOR at 1.00%.
- (3) Reflects the fees payable to our ship manager for (i) the minimum term of 36-60 months for the ship management agreements with Technomar, from the actual or anticipated effective date of these contracts, at a daily rate of €685 and an exchange rate of 1.120 USD:Euro, inflated at 2.5% annually and brokerage commissions payable to our commercial manager, Conchart, for the current employment of the fleet, up to earliest date of redelivery under current charters. The obligations to our ship managers do not include any amount for the reimbursement of daily operating costs incurred by them on our behalf.

#### G. Safe Harbor

See the section titled “Cautionary Note Regarding Forward-Looking Statements” at the beginning of this Annual Report.

### Item 6. Directors, Senior Management and Employees

#### A. Directors and Senior Management

Our directors and executive officers as of the date of this Annual Report and their ages as of December 31, 2019 are listed below:

Name	Age	Position
George Giouroukos	54	Executive Chairman
Michael S. Gross	58	Director
Alain Wils	76	Director
Philippe Lemonnier	59	Director
Michael Chalkias	49	Director
Henry Mannix III	40	Director
Alain Pitner	70	Director
Menno van Lacum	49	Director
Ian J. Webber	62	Chief Executive Officer
Thomas A. Lister	50	Chief Commercial Officer
Anastasios Psaropoulos	41	Chief Financial Officer

**George Giouroukos:** Mr. Giouroukos has been our Executive Chairman since November 2018 when the strategic combination with Poseidon Containers was completed. He has been involved in Shipping since 1993, when he joined a major Greek shipowning company and worked in various departments. He founded Technomar, an internationally recognized ship management company, in 1994, where he has served as Managing Director. With over 25 years of experience in the sector, he has negotiated and executed over 200 secondhand and newbuilding ship transactions, creating partnerships with a number of major shipping banks resulting in co-investment of approximately \$230 million in workout transactions. He has also partnered with Private Equity firms to jointly invest in container and dry bulk ships. Mr. Giouroukos serves as the Chairman of the Hellenic Advisory Committee of International classification society, RINA and holds a Bachelor in Mechanical Engineering from University College London and a Master in Engineering from Brunel University.

**Michael S. Gross:** Mr. Gross has been a director since inception and was Chairman from September 2008 to November 2018 when the strategic combination with Poseidon Containers closed. Since 2010, Mr. Gross has been the Chairman of the board of directors and Chief Executive Officer of Solar Senior Capital Ltd. Since 2007, Mr. Gross has served as the Chairman and Chief Executive Officer of Solar Capital Ltd, a finance company focusing on debt and equity investments in leveraged companies. From 2004 to 2006, Mr. Gross was the President and Chief Executive Officer of Apollo Investment Corporation (“AIC”), a publicly traded business development company, and was the managing partner of Apollo Investment Management, L.P. (“AIM”), the investment adviser to AIC. From 1990 to 2006 Mr. Gross was a senior partner of Apollo Management, a leading private equity firm which he co-founded in 1990.

**Alain Wils:** Mr. Wils has been a director since May 2014. He is a consultant in the shipping and logistics industries, after more than 40 years of experience in the sector. Mr. Wils joined the CMA CGM group in 1996 as managing director of the previously state-owned shipping company, CGM, on its acquisition by CMA. He was appointed an executive board member of CMA CGM in 2001 on the merger of CMA and CGM until his retirement in 2008. From 1992 to 1996, he was chairman and CEO of Sceta International, later renamed Geodis International, a leading European logistics and freight forwarding company. He was the managing director of the shipping group Delmas Vieljeux, which he joined in 1971, from 1982 to 1992. Mr. Wils, who is a graduate of HEC Paris and of Paris University, was appointed Chevalier de la Légion d’Honneur in 1995 and chaired the French Shipowners’ Association from 1998 to 2000.

**Philippe Lemonnier:** Mr. Lemonnier has been a director since September 2017. He currently serves as Vice President Group Performance Control at CMA CGM group. Previously he was Global Head of Efficiency Programs at CEVA Logistics, also responsible for Procurement and the Margin Improvement Program. He has served as Group Financial Controller and in charge of the Agility Program (cost savings program) at CMA CGM, having joined the company in 2005. He has more than 30 years of experience in finance and accounting and has served in senior leadership roles across multiple industries, including as the Chief Financial Officer of two French telecommunications companies.

**Michael Chalkias:** Mr. Chalkias has been a director since November 2018 when the strategic combination with Poseidon Containers was completed. He is the Co-founder of Prime Marine, a leading international product tanker and gas carrier company, which has managed more than 95 ships since its inception, where he serves as Co-Chief Executive Officer. Since March 2018, Mr. Chalkias has also served as non-executive, non-independent director of First Ship Lease Trust (“FSL Trust”), a Singapore-based business trust listed on the Mainboard of the Singapore Exchange Securities Trading Limited. FSL Trust currently owns a diversified portfolio of 18 ships. Mr. Chalkias has more than 25 years of experience in the shipping industry, during which he has accumulated broad experience in all aspects of the business and established strong relationships in the shipping industry. Prior to co-founding Prime Marine’s predecessor in 1999, he was employed by Tufton Oceanic Limited, a specialized shipping finance and investment firm in London, where he was involved with debt and equity instruments as well as structured financing. Over the course of his career, Mr. Chalkias has invested in many ships, primarily product tankers and gas carriers. Mr. Chalkias holds an MSc with Distinction in Shipping, Trade & Finance from the Cass Business School at the City University of London and a BSc with Honors in Maritime Business and Maritime Law from the University of Plymouth.

**Henry (Hank) Mannix III:** Mr. Mannix was appointed a director in November 2018. He has served as a director of Poseidon Containers since 2010. Mr. Mannix joined Kelso & Company, a U.S. private equity firm, in 2004 and became a Managing Director in 2015. He spent the preceding two years in the investment banking division of Credit Suisse First Boston. Mr. Mannix is also a director of Elara Caring, Physicians Endoscopy and The Traxys Companies. Mr. Mannix received a B.A. in Math and Economics from the College of the Holy Cross in 2001. Mr. Mannix has extensive experience in corporate financing and in evaluating the financial performance and operations of companies across a variety of business sectors, including the shipping sector.

**Alain Pitner:** Mr. Pitner, who has 30 years of shipping experience, was appointed a director in November 2018. Mr. Pitner commenced his career in 1974 in the Risk Department of Banque Indosuez, now part of Credit Agricole Group. He held various operational and commercial responsibilities in the Bank's French Export Credit Department. In 1987, Mr. Pitner joined the Shipping Division of the Bank's Structured Finance Department, where he financed newbuildings and was also responsible for special projects. He then was entrusted with increasingly senior roles. In September 2017, after 42 years, Mr. Pitner retired from the bank. He graduated from Reims business school and holds a MSIA from Krannert Business School—Purdue University, USA.

**Menno van Lacum:** Mr. van Lacum was appointed a director in November 2018 and commenced his career in 1997 at the Fortis Group in the Netherlands. In 1999, he joined the Transportation Group at MeesPierson where he was responsible, in different capacities, for arranging and structuring debt capital markets and leasing products predominantly for the Transportation Equipment Leasing sector. In 2005, Mr. van Lacum became Director of the Fortis Principal Finance Group in the USA, responsible for holding equity investments and structuring debt instruments across different asset classes within the Transportation Sector. In 2009, Mr. van Lacum joined the Transportation Capital Group ("TCG") as a Partner in the Netherlands. TCG is a private investment firm focusing primarily on the shipping industry. Mr. van Lacum holds a Master's Degree in Economics from the University of Amsterdam, Netherlands.

**Ian J. Webber:** Mr. Webber became our Chief Executive Officer in August 2008. From 1979 to 1996, Mr. Webber worked for PriceWaterhouse, the last five years of which he was a partner. From 1996 to 2006, Mr. Webber served as the Chief Financial Officer and a director of CP Ships Limited, a subsidiary of Canadian Pacific Limited until 2001 and thereafter a public company listed on the New York and Toronto stock exchanges until its acquisition by TUI A.G. in 2005. Mr. Webber is a graduate of Cambridge University.

**Thomas A. Lister:** Mr. Lister has been our Chief Commercial Officer since August 2008 and, from April 2017 until the merger with Poseidon Containers in November 2018, was also our Chief Financial Officer. From 2005 until 2007, Mr. Lister was a Senior Vice President at DVB. Before that, from 2004 to 2005, he worked for the German KG financier and ship owning group, Nordcapital & E.R.Schiffahrt, as Director of Business Development. From 1991 to 2002, Mr. Lister worked in a number of managerial, strategic and operational roles liner shipping companies and their agents. Mr. Lister graduated from Durham University and holds an MBA from INSEAD.

**Anastasios Psaropoulos:** Mr. Psaropoulos became our Chief Financial Officer in November 2018. He has over 12 years of experience in finance in the shipping sector. He has served as Chief Financial Officer of Poseidon Containers and Technomar, which he joined in 2011, participating in a number of successful distressed assets acquisitions. Prior to Poseidon, he was financial controller in Dolphin Capital, an AIM listed real estate development fund. He has also worked as an external auditor with PricewaterhouseCoopers, covering shipping and oil & gas industries. Mr. Psaropoulos holds a Master in Economics with specialization in Finance and Investments, from the Athens University of Economics and Business. He has also participated in the Program for Leadership Development (PLDA) of Harvard Business School.

## **B. Compensation**

### **Compensation of Executive Officers**

For the year ended December 31, 2019, we have expensed an aggregate of \$1.88 million in compensation to our current and former executive officers. Set forth below is a description of certain material terms of the employment agreements with each of our executive officers, which is qualified in its entirety by the respective agreements which are filed as exhibits hereto.

*George Giouroukos, Executive Chairman*

Mr. Giouroukos has entered into an employment contract with GSL Enterprises Ltd. (“GSL Enterprises”), our wholly-owned subsidiary, and Mr. Giouroukos serves as our Executive Chairman pursuant to the terms of an inter-company agreement between us and GSL Enterprises.

Pursuant to his employment agreement, Mr. Giouroukos receives an annual salary and is eligible to receive an annual performance-based cash bonus payment out of the profits of GSL Enterprises.

The agreement is terminable by Mr. Giouroukos if he provides not less than six months’ advance written notice to GSL Enterprises except if such termination is for “good reason”, including a “change in control” of Global Ship Lease, Inc., as such terms are defined in his employment agreement, in which case Mr. Giouroukos is able to terminate the agreement by providing not less than 14 days’ advance written notice to GSL Enterprises. GSL Enterprises is able to terminate Mr. Giouroukos’ employment agreement by providing no less than 12 months’ advance written notice to Mr. Giouroukos (subject to exceptions in the case of summary termination). If Mr. Giouroukos resigns for “good reason” or GSL Enterprises terminates his employment for any reason whatsoever other than for “cause”, Mr. Giouroukos is entitled to receive a severance payment in lieu of a salary and contractual benefits for 12 months following the termination date, together with any bonus payable in accordance with the terms of the employment agreement.

*Ian Webber, Chief Executive Officer*

GSLs, our wholly-owned subsidiary, has entered into an employment agreement with Mr. Webber and Mr. Webber serves as our Chief Executive Officer pursuant to the terms of an inter-company agreement between us and GSLs.

Mr. Webber’s employment agreement provided that for “good reason” following a “change of control” (each as defined in the employment agreement), he would be entitled to receive payment in lieu of salary and contractual benefits for his 12 month notice period, together with any accrued but unpaid bonus. As the Poseidon Transaction would constitute a “change of control” as defined, in order to protect the interests of the Global Ship Lease group, GSLs and Mr. Webber entered into an Amended and Restated Service Agreement dated June 1, 2018 with a further Deed of Amendment dated October 16, 2018.

Pursuant to these revised employment agreements, the Poseidon Transaction was excluded from the definition of change of control. On completion of the Poseidon Transaction, for so long as Mr. Webber has not resigned, he became entitled to a transaction bonus equivalent to 60% of six months’ salary, and is entitled to receive a Retention Amount payable in nine equal instalments, up to end of July 2019, being equal to salary and bonus at 60% of his salary for 12 months, together with bonus at 60% of his salary up to end July 2019. The company retained the right to terminate the employment agreement against payment of all amounts due, unless such termination was for cause. The company and Mr. Webber could have each terminated the employment agreement on one month’s notice within 90 days following the earlier of (i) the completion of the “Transition”, being the substantive completion of the transfer of accounting, finance and other administrative functions from London to Athens, and (ii) November 15, 2019, being the anniversary of the completion of the Poseidon Transaction. The Transition was completed on July 31, 2019. Should the employment agreement have been terminated in this manner, Mr. Webber would have been entitled to receive the balance of the Retention Amount, if any, the value of one year’s contractual benefits, such as private medical cover, and the balance of bonus, if any, at 60% of his salary from August 1, 2019 to the date of termination.

Mr. Webber receives a salary and is eligible to receive a cash bonus payment up to an annual maximum of 60% of his salary at the discretion of GSLs. He is also eligible to receive share based incentives.

The agreement is terminable by Mr. Webber if he provides not less than six months advance written notice to GSLs, or by GSLs if it provides not less than 12 months advance written notice to him (subject to exceptions in the case of summary termination). GSLs has the right to terminate Mr. Webber at any time and in its absolute discretion by paying Mr. Webber a sum equal to his salary and contractual benefits for the relevant period of notice.

The agreement also provides that, during his employment or for a period of one year thereafter, Mr. Webber will not, among other actions, solicit or attempt to solicit certain employees or certain customers of ours (or one of our group companies) or be involved in any relevant business in competition with us (or one of our group companies).

*Anastasios Psaropoulos, Chief Financial Officer*

Mr. Psaropoulos has entered into an employment contract with GSL Enterprises, our wholly-owned subsidiary, and pursuant to the terms of an inter-company agreement between us and GSL Enterprises Mr. Psaropoulos serves as our Chief Financial Officer and Treasurer.

Pursuant to the employment agreement, Mr. Psaropoulos receives an annual salary and is eligible to receive an annual performance-based cash bonus payment out of the profits of GSL Enterprises.

The agreement is terminable by Mr. Psaropoulos if he provides not less than six months' advance written notice to GSL Enterprises except if such termination is for "good reason", including a "change in control" of Global Ship Lease, Inc., as such terms are defined in the employment agreement, in which case Mr. Giouroukos is able to terminate the agreement by providing not less than 14 days' advance written notice to GSL Enterprises. GSL Enterprises is able to terminate Mr. Psaropoulos' employment agreement by providing no less than 12 months' advance written notice to Mr. Psaropoulos (subject to exceptions in the case of summary termination). If Mr. Psaropoulos resigns for "good reason" or GSL Enterprises terminates his employment for any reason whatsoever other than for "cause", Mr. Psaropoulos is entitled to receive a severance payment in lieu of a salary and contractual benefits for 12 months following the termination date, together with any bonus payable in accordance with the terms of the employment agreement.

*Thomas Lister, Chief Commercial Officer*

GSLs, our wholly-owned subsidiary, has entered into an employment agreement with Mr. Lister and, pursuant to the terms of an inter-company agreement between us and GSLs, Mr. Lister serves as our Chief Commercial Officer. Mr. Lister also previously served as our Chief Financial Officer from April 1, 2017 to November 15, 2018 until the merger with Poseidon Containers.

Mr. Lister's employment agreement provided that for "good reason" following a "change of control" (each as defined in the employment agreement), he would be entitled to receive payment in lieu of salary and contractual benefits for his nine month notice period, together with any accrued but unpaid bonus. As the Poseidon Transaction would constitute a "change of control" as defined, in order to protect the interests of the Global Ship Lease group, GSLs and Mr. Lister entered into an Amended and Restated Service Agreement dated June 1, 2018 with a further Amended and Restated Service Agreement dated October 16, 2018.

Pursuant to the revised employment agreement, the Poseidon Transaction was excluded from the definition of change of control. On completion of the Poseidon Transaction, for so long as Mr. Lister has not resigned, he became entitled to a transaction bonus equivalent to 40% of six months' salary, and is entitled to receive a Retention Amount payable in nine equal instalments, up to end of July 2019, being equal to salary and bonus at 40% of his salary for 12 months, together with bonus at 40% of his salary up to end July 2019. The company retained the right to terminate the employment agreement against payment of all amounts due, unless such termination was for cause. The company and Mr. Lister could have each terminated the employment agreement on one month's notice within 90 days following the earlier of (i) the completion of the Transition, being the substantive completion of the transfer of accounting, finance and other administrative functions from London to Athens, and (ii) November 15, 2019, being the anniversary of the completion of the Poseidon Transaction. The Transition was completed on July 31, 2019. Should the employment agreement have been terminated in this manner, Mr. Lister would have been entitled to receive the balance of the Retention Amount, if any, the value of one year's contractual benefits, such as private medical cover, and the balance of bonus, if any, at 40% of his salary from August 1, 2019 to the date of termination.

Mr. Lister receives a salary and is eligible to receive a cash bonus payment up to an annual maximum of 40% of his salary at the discretion of GSLs. He is also eligible to receive share based incentives.

The agreement is terminable by Mr. Lister if he provided not less than six months advance written notice to GSLS, or by GSLS if it provided not less than nine months advance written notice to him (subject to exceptions in the case of summary termination). Pursuant to the terms of his employment agreement, GSLS will have the right to terminate Mr. Lister at any time and in its absolute discretion by paying him a sum equal to his salary and contractual benefits for the relevant period of notice.

The agreement also provides that, during his employment or for a period of three months thereafter, Mr. Lister will not, among other actions, solicit or attempt to solicit certain employees or certain customers of ours (or one of our group companies) or be involved in any relevant business in competition with us (or one of our group companies).

#### *Former Executive Officers*

##### *Vivek Puri, former Chief Technical Officer*

Mr. Puri served as our Chief Technical Officer until completion of the Poseidon Transaction on November 15, 2018. GSLS and Mr. Puri agreed, under a Settlement Agreement dated January 18, 2019, that Mr. Puri's employment would continue unless and until terminated by either party on at least two weeks' notice. Mr. Puri received an initial severance amount and was entitled to a further severance amount at termination. Mr. Puri's employment terminated on April 12, 2019.

##### *Susan Cook, former Chief Financial Officer*

Susan Cook served as our Chief Financial Officer until March 31, 2017, when she resigned from that role. She continued to be employed by GSLS, in a part-time advisory capacity, until February 28, 2019. Ms. Cook also entered into an Amended and Restated Service Agreement dated June 1, 2018 with a further Deed of Amendment dated October 16, 2018. Ms. Cook was also entitled to receive a Retention Amount, payable in six equal instalments, up to end of April 2019, being equal to salary and bonus at 40% for 12 months, together with bonus at 40% up to end July 2019. Ms. Cook's employment terminated on February 28, 2019, accelerating the payment of the outstanding Retention Amount instalments.

#### **Compensation of Directors**

Our Executive Chairman is employed by GSL Enterprises Ltd. and is entitled to a net annual salary of \$80,000 and an annual performance-based cash bonus which is anticipated to be at least \$170,000. Our other directors receive an annual fee of \$105,000. The Chairman of the audit committee receives an additional fee of \$15,000 and each member of the audit committee receives an additional \$7,500. The Chairman of the nominating and corporate governance committee and the compensation committee each receive an additional \$5,000 and each member of those committees receives an additional \$2,500. In addition, each director is reimbursed for out-of-pocket expenses in connection with attending meetings of the board of directors or committees.

#### **2019 Omnibus Incentive Plan**

On February 4, 2019, our board of directors adopted the Global Ship Lease, Inc. 2019 Omnibus Incentive Plan, (the "2019 Plan"), under which directors, officers and employees (including any prospective director, officer or employee) of us and our subsidiaries and affiliates are eligible to receive non-qualified options, stock appreciation rights, restricted stock units, dividend equivalents, cash awards, unrestricted stock and other equity-based or equity-related awards as set forth fully in the 2019 Plan. We have reserved a total of 1,812,500 Class A common shares for issuance under the 2019 Plan during its 10-year term. During any calendar year, each non-employee director may not be granted more than 12,500 shares of Class A common stock or cash awards in excess of \$100,000. We currently have 453,125 Class A common shares remaining to be awarded under the 2019 Plan.



The purpose of the 2019 Plan is to provide directors, officers and employees, whose initiative and efforts are deemed to be important to the successful conduct of our business, with incentives to (a) enter into and remain in the service of our company or our subsidiaries and affiliates, (b) acquire a proprietary interest in the success of our company, (c) maximize their performance and (d) enhance the long-term performance of our company. The 2019 Plan is administered by the compensation committee of our board of directors or such other committee of our board of directors as may be designated by the board.

Under the terms of the 2019 Plan, stock options and appreciation rights granted under the 2019 Plan will have an exercise price equal to the fair market value of a common share on the date of grant, provided that in no event may the exercise price be less than the fair market value of a common share on the date of grant. Options and stock appreciation rights will be exercisable at times and under conditions as determined by the plan administrator, but in no event will they be exercisable later than 10 years from the date of grant.

The plan administrator may grant restricted stock and awards of restricted stock units subject to vesting and forfeiture provisions and other terms and conditions as determined by the administrator of the 2019 Plan. Upon the vesting of a restricted stock unit, the award recipient will be paid an amount equal to the number of restricted stock units that then vest multiplied by the fair market value of a common share on the date of vesting, which payment may be paid in the form of cash or common shares or a combination of both, as determined by the administrator of the 2019 Plan. The 2019 Plan administrator may grant dividend equivalents with respect to grants of restricted stock units.

Adjustments may be made to outstanding awards in the event of a corporate transaction or change in capitalization or other extraordinary event. In the event of a “change in control” (as defined in the 2019 Plan), unless otherwise provided by the 2019 Plan administrator in an award agreement, awards then outstanding shall become fully vested and exercisable in full.

Our board of directors may amend or terminate the 2019 Plan and may amend outstanding awards, provided that no such amendment or termination may be made that would materially impair the rights or materially increase any obligations, of a grantee under an outstanding award. Shareholders’ approval of 2019 Plan amendments may be required in certain circumstances if required by applicable rules of a national securities exchange or the SEC. Unless terminated earlier by the board of directors, the 2019 Plan will expire 10 years from the date on which the 2019 Plan was adopted by the board of directors.

Following the adoption of the 2019 Plan, the 2015 and 2008 Plans were terminated.

In 2019, our Board of Directors approved awards to our executive officers under the 2019 Plan, providing our executive officers with the opportunity to receive up to 1,359,375 Class A common shares in aggregate, in four tranches.

- *Tranche A*, to vest based on time served only, over the three years commencing January 1, 2019. One third of Tranche A vested in the first quarter of 2020 and the remainder will vest in eight equal instalments over consecutive three month intervals commencing March 31, 2020.
- *Tranche B*, vested in January 2020, once the 60 Day Volume Weighted Average Price of the Class A common shares (the “60 Day VWAP”) exceeded \$8.00.
- *Tranche C*, to vest on the business day after the 60 Day VWAP of the Class A common shares exceeds \$11.00.
- *Tranche D*, to vest on the business day after the 60 Day VWAP of the Class A common shares exceeds \$14.00.

Mr. Giouroukos, Mr. Webber, Mr. Psaropoulos and Mr. Lister were awarded 27%, 22%, 13% and 13% of the total number of Class A common shares, with Tranche A, B, C and D representing 25%, 15%, 25% and 35% respectively.

### **C. Board Practices**

Our board of directors is divided into three classes with one class of directors being elected in each year and each class serving a three-year term. The current term of office of the Term I class of directors consisting of Mr. Lemonnier, Mr. Mannix and Mr. Pitner, expires at the annual meeting of shareholders to be held in 2021. The current term of office of the Term II class of directors, consisting of Mr. Chalkias and Mr. Giouroukos, expires at the annual meeting of shareholders to be held in 2022. The current term of office of the Term III class of directors, consisting of Mr. Gross, Mr. van Lacum and Mr. Wils, expires at the annual meeting of shareholders to be held in 2020.

Other than our Executive Chairman, none of our directors have service contracts with us or any of our subsidiaries providing for benefits upon the termination of their employment.

For information about the period during which each director and executive officer has served in such position at our company, see “Item 6. Directors, Senior Management and Employees – A. Directors and Senior Management.”

#### *Director Independence*

Our board of directors has determined that all directors other than Mr. Lemonnier are “independent directors” as such term is defined in Rule 10A-3 under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), and the NYSE rules. Mr. Lemonnier, a senior executive of CMA CGM, our largest shareholder, was appointed as a Director in September 2017, following his nomination by CMA CGM.

#### **Board Observer Agreement**

On November 12, 2019, we entered into a Board Observer Agreement with B. Riley Financial, Inc. and B. Riley FBR which (i) amended the prior engagement letter and underwriting agreement by and between B. Riley FBR and ourselves to eliminate the right of B. Riley FBR to appoint a director to our Board of Directors; and (ii) granted a right to B. Riley Financial, Inc. to designate an observer to our Board of Directors (“Observer”), provided that B. Riley Financial, Inc. and/or its affiliates own more than 5% of the outstanding voting power of us. The Observer may attend all meetings of the board of directors and certain meetings of committees of the board of directors in a non-voting, observer capacity and may participate in discussions of the board of directors. B. Riley Financial, Inc. has designated Daniel Shribman as its representative to serve as Observer.

#### **Board Committees**

Our board of directors has formed an audit committee, a compensation committee, and a nominating and corporate governance committee. Our board committee charters are available on our website ([www.globalshiplease.com](http://www.globalshiplease.com)) and in print to any investor upon request. The information included on our website is not incorporated herein by reference.

##### *Audit Committee*

We have established an audit committee, comprised of three members of our board of directors, which, as directed by our written audit committee charter, is responsible for overseeing the management’s conduct of our systems of internal accounting and financial controls, reviewing our financial statements, recommending to the board of directors the engagement of our independent auditors, and pre-approving audit and audit-related services and fees.

The audit committee will at all times be composed exclusively of “independent directors” who, as may be required by the NYSE listing standards, are able to read and understand fundamental financial statements, including a company’s balance sheet, income statement and cash flow statement. Our audit committee currently consists of Messrs. Chalkias, van Lacum and Wils, each of whom is “independent” as defined in Rule 10A-3 under the Exchange Act and the NYSE rules.

In addition, the audit committee has at least one member who has past employment experience in finance or accounting, requisite professional certification in accounting, or other comparable experience or background that results in the individual’s financial sophistication. The board of directors has determined that Mr. van Lacum satisfies the NYSE’s definition of financial sophistication and also qualifies as an “audit committee financial expert,” as defined under Item 401 of Regulation S-K under the Exchange Act.

### *Compensation Committee*

U.S. domestic issuers are required to have a compensation committee that is comprised entirely of independent directors. Although as a foreign private issuer this rule does not apply to us, we have a compensation committee. Our compensation committee consists of Messrs. Gross, Mannix and Pitner. The compensation committee is responsible for and reports to the board of directors on the evaluation and compensation of executives, oversees the administration of compensation plans, reviews and determines director and executive compensation and prepares any report on executive compensation required by the rules and regulations of the SEC.

### *Nominating and Corporate Governance Committee*

U.S. issuers are required to have a nominating and corporate governance committee that is comprised entirely of independent directors. Although as a foreign private issuer this rule does not apply to us, we have a nominating and corporate governance committee. Our nominating and corporate governance committee consists of Messrs. Chalkias, Pitner and Wils. The nominating and corporate governance committee reports to the board of directors on and is responsible for succession planning and the appointment, development and performance evaluation of our board members and senior executives. It also assesses the adequacy and effectiveness of our corporate governance guidelines, reviewing and recommending changes to the board whenever necessary.

### **D. Employees**

As of December 31, 2019, we had seven employees.

### **E. Share Ownership**

See “Item 7. Major Shareholders and Related Party Transactions—A. Major Shareholders” for information regarding beneficial ownership by our directors and executive officers.

See “Item 6. Directors, Senior Management and Employees—B. Compensation—2019 Equity Incentive Plan” for information regarding our equity incentive plan.

## **Item 7. Major Shareholders and Related Party Transactions**

### **A. Major Shareholders**

The following table sets forth information regarding the beneficial ownership of our Class A common shares as of the date of this report by:

- each person known by us to be the beneficial owner of more than 5% of our outstanding common shares;
- each of our officers and directors; and
- all of our officers and directors as a group.

Except as otherwise indicated, each person or entity named in the table below has sole voting and investment power with respect to all of our Class A common shares or our Series C Preferred Shares, shown as beneficially owned, subject to applicable community property laws. As of the date of this report, an aggregate of 17,556,738 Class A common shares were issued and outstanding. In addition, there were an aggregate of 250,000 Series C Preferred Shares outstanding, all held by Kelso affiliates, which convert in limited circumstances to an aggregate of 12,955,187 Class A common shares.

The Class A common shares each have one vote and vote together as a single class except that any amendment to the articles of incorporation, including those made pursuant to the terms of any merger, consolidation or similar transaction, that would increase or decrease the aggregate number of authorized common shares of a class, increase or decrease the par value of common shares of a class, or alter or change the powers, preferences or rights of the class of common shares so as to affect them adversely, must be approved by the holders of not less than a majority of the votes entitled to be cast by the holders of such class of common shares then outstanding, voting separately as a class. Each Series C Preferred Share is entitled to 38.75 votes on all matters submitted to a vote of the shareholders. The holders of Series C Preferred Shares vote together with the common shareholders as one class on all matters submitted to a vote of the shareholders.

Name of Beneficial Owner	Class A Common Shares Beneficially Owned	Approximate Percentage of Outstanding Class A Common Shares <sup>(1)</sup>
<b>5% Shareholders:</b>		
CMA CGM S.A.	3,051,587 <sup>(2)</sup>	17.4%
B. Riley Financial, Inc.	2,089,226 <sup>(3)</sup>	11.9%
Nokomis Capital, L.L.C.	1,225,000 <sup>(4)</sup>	7.0%
MAAS Capital	1,036,415 <sup>(5)</sup>	5.9%
Whitefort Capital Master Fund, LP	883,041 <sup>(6)</sup>	5.0%
George Giouroukos	1,473,336 <sup>(7)(10)</sup>	8.4%
Michael S. Gross	1,344,094 <sup>(8)</sup>	7.7%
<b>Other Directors and Executive Officers:</b>		
Alain Wils	1,312	0.01%
Henry Mannix III	155,750 <sup>(9)</sup>	0.9%
Menno van Lacum	13,794	0.1%
Ian J. Webber	69,106 <sup>(10)</sup>	0.4%
Thomas Lister	33,801 <sup>(10)</sup>	0.2%
Anastasios Psaropoulos	13,685	0.1%
All directors and executive officers as a group (11 individuals)	3,104,878	17.7%
<b>Other:</b>		
KIA VIII (Newco Marine) Ltd.	155,750 <sup>(9)</sup>	0.9%
KEP VI (Newco Marine) Ltd.	155,750 <sup>(9)</sup>	0.9%

(1) Calculated based on 17,556,738 common shares outstanding as of the date of this report.

(2) This information is derived from a Schedule 13D/A filed with the SEC on October 15, 2019. CMA CGM S.A. is controlled by Merit Corporation S.A.L., which may be deemed to exercise voting and investment power over all securities of Global Ship Lease, Inc. held by CMA CGM S.A. and thus may be deemed to beneficially own such securities.

(3) This information is derived from a Schedule 13G/A filed with the SEC on January 28, 2020 which stated that, as of the relevant date, BRC Partners Opportunities fund, L.P. ("BRPLP") beneficially owned 344,827 shares of Class A common stock. BRC Partners Management GP, LLC ("BRPGP") is the general partner of BRPLP. B. Riley Capital Management, LLC ("BRCM") is an investment advisor to BRPLP. As a result, each of BRPGP and BRCM may be deemed to have beneficially owned the 344,827 shares of Common Stock owned directly by BRPLP. As of the relevant date, BRFBR beneficially owned 1,744,399 shares of Class A common stock.

As of the relevant date, B. Riley Financial, Inc., as the parent company of BRCM and BRFBR may be deemed to have beneficially owned the 2,089,226 shares of Class A common stock beneficially owned in the aggregate by BRCM and BRFBR.

(4) This information is derived from a Schedule 13G filed with the SEC on February 14, 2020.

- (5) This information is derived from a Schedule 13G filed with the SEC on May 17, 2019 which included that, as of the relevant date, Maas Capital Investments B.V. was the beneficial owner of 1,036,415 Class A common shares.
- (6) This information is derived from a Schedule 13G filed with the SEC on March 13, 2020 which included that, as of the relevant date, Whitefort Capital Master Fund, LP was the beneficial owner of 883,041 Class A common shares. David Salanic and Joseph Kaplan, by virtue of their positions as Co-Managing Partners of Whitefort Capital Management, LP, the investment manager of Whitefort Capital Master Fund, LP, may be deemed to have voting and dispositive power with respect to the shares owned by Whitefort Capital Master Fund, LP.
- (7) Mr. Giouroukos, who serves as our Executive Chairman, owns and controls Shipping Participations Inc., which is the record holder of 1,473,336 Class A common shares. As a result, Mr. Giouroukos may be deemed to beneficially own the shares held by Shipping Participations Inc.
- (8) This information is derived from a Schedule 13D/A filed with the SEC on October 3, 2019. Michael S. Gross directly holds 566,880 shares of Class A common shares. Marathon Founders, LLC directly holds 777,214 shares of Class A common shares. As the Managing Member of Marathon Founders, LLC, Mr. Gross may be deemed to exercise voting rights and investment power over all securities of Global Ship Lease, Inc. held by Marathon Founders, LLC and thus may be deemed to beneficially own such shares.
- (9) This information is derived from a Schedule 13D filed with the SEC on October 4, 2019. Includes Class A common shares deemed to be beneficially owned by KIA VIII (Newco Marine) Ltd., or KIA VIII, and KEP VI (Newco Marine) Ltd., or KEP VI, by virtue of a voting agreement entered into among KEP VIII, KEP VI, CMA CGM S.A. and Michael S. Gross. KEP VI (Cayman), L.P., KEP VI (Cayman) GP Ltd., KIA VIII (International), L.P., KELSO GP VIII (Cayman) L.P., KELSO GP VIII (Cayman) Ltd., Frank T. Nickell, Thomas R. Wall, IV, George E. Matelich, Michael B. Goldberg, David I. Wahrhaftig, Frank K. Bynum, Jr., Philip E. Berney, Frank J. Loverro, James J. Connors, II, Stanley de J. Osborne, Church M. Moore, Christopher L. Collins, Anna Lynn Alexander, Howard A. Matlin, Stephen C. Dutton, Matthew S. Edgerton, and Henry Mannix III (the “Kelso Joint Filers”) may be deemed to share beneficial ownership of these Class A common shares. Each of the Kelso Joint Filers share investment and voting power with respect to any Class A common shares beneficially owned by KIA VIII and KEP VI but disclaim beneficial ownership of such Class A common shares.

In addition, there were an aggregate of 250,000 Series C Preferred Shares outstanding, all held by Kelso affiliates, which convert in limited circumstances to an aggregate of 12,955,187 Class A common shares. Each Series C Preferred Share is entitled to 38.75 votes on all matters submitted to a vote of the shareholders. The holders of Series C Preferred Shares vote together with the common shareholders as one class on all matters submitted to a vote of the shareholders. According to information contained in public filings, KEP VI (Newco Marine) Ltd. and KIA VIII (Newco Marine) Ltd., both affiliates of Kelso & Company, a U.S. private equity firm, hereafter referred to as Kelso, controls votes representing approximately 36.1% of the vote on any matter submitted to the vote of our common shareholders, through its ownership of Series C Preferred Shares and by virtue of the voting agreement with certain other of our shareholders.

- (10) Does not include share-based awards that were approved by the Company’s Board of Directors in 2019, which are described above under the heading “Item 6. Directors, Senior Management and Employees-B. Compensation-2019 Omnibus Incentive Plan”.

As of March 22, 2020, we had 18 registered shareholders of record, five of which were located in the United States and held an aggregate of 11,558,621 of our Class A common shares, representing 65.8% of our outstanding common shares. However, one of the U.S. shareholders of record is Cede & Co., a nominee of The Depository Trust Company, which held 10,761,690 of our Class A common shares as of March 22, 2020. We believe that the shares held by Cede & Co. include common shares beneficially owned by both holders in the United States and non-U.S. beneficial owners.

Other than Kelso by virtue of its beneficial ownership of Series C Preferred Shares, our major shareholders, directors and executive officers do not have different voting rights.

We are not aware of any arrangements the operation of which may at a subsequent date result in our change of control.

## **B. Related Party Transactions**

### **Registration Rights Agreement**

At the time of the Marathon Merger, we entered into a registration rights agreement with CMA CGM, Marathon Investors, LLC, Marathon Founders, LLC and the other initial shareholders of Marathon common stock (including Michael S. Gross), pursuant to which we agreed to register for resale on a registration statement under the Securities Act of 1933, as amended, and applicable state securities laws, the common shares issued to such shareholders pursuant to the Marathon Merger or upon exercise of warrants (the “Marathon Registration Rights Agreement”).

On October 29, 2018, we entered into an Amended and Restated Registration Rights Agreement (the “Amended and Restated Registration Rights Agreement”), which amended and restated the Marathon Registration Rights Agreement, with KEP VI, KIA VIII, CMA CGM, Management Investor Co., Anmani Consulting Inc., Marathon Founders, LLC, Michael S. Gross and Maas Capital Investments B.V. with respect to all Class A common shares and Series C Preferred Shares held by such shareholders on the closing date of the Poseidon Transaction, including any Class A common shares issuable on conversion of Series C Preferred Shares. The Amended and Restated Registration Rights Agreement became effective on the closing of the Poseidon Transaction. Pursuant to the Amended and Restated Registration Rights Agreement, we will, on or before the date that is six months after the closing of the Poseidon Transaction, file with the SEC a shelf registration statement to register the offer and resale of all securities covered by the Amended and Restated Registration Rights Agreement. The Amended and Restated Registration Rights Agreement provides certain piggyback and demand registration rights. The Amended and Restated Registration Rights Agreement also provides that the shareholders party to it will not transfer any shares covered by the agreement for a period of six months following the closing of the Poseidon Transaction (with certain exceptions) and contains customary indemnification and other provisions.

### **Letter Agreement**

On October 29, 2018, we entered into a Letter Agreement with affiliates of Kelso, CMA CGM, Marathon Founders, LLC and Michael S. Gross. The Letter Agreement became effective on the closing of the Poseidon Transaction.

Pursuant to the Letter Agreement, (a) for so long as CMA CGM holds at least 5% of our voting power, CMA CGM has the right to designate (and Kelso has the obligation to vote in favor of) an individual nominee to serve on our Board of Directors (and such nominee will also have a right to serve on the Audit Committee of the Board of Directors), (b) for so long as CMA CGM holds at least 10% of our voting power, CMA CGM has the right to designate (and Kelso has the obligation to vote in favor of) two individuals to serve on the Board of Directors and (c) CMA CGM designated Philippe Lemonnier and Alain Wils as the two individuals to serve on the Board of Directors.

The Letter Agreement also contains certain participation and tag-along rights. For example, each of Kelso and CMA CGM has the right to purchase a pro rata portion of any new issuance of securities by us (other than certain exempt issuances) for so long as it holds at least 10% of our voting power. Additionally, each of CMA CGM, Marathon Founders, LLC and Mr. Gross have the right to transfer Class A common shares pro rata alongside Kelso in any transfer or series of related transfers by Kelso to a third party that would result in the third party acquiring more than 30% of our voting power (with the exception of certain exempt transfers).

The Letter Agreement also provides that, for so long as CMA CGM holds at least 5% of our voting power, we may not make any material change in the nature of our business without the unanimous consent of the Board of Directors.

### **Non-Compete Agreement**

On October 29, 2018, we entered into a Non-Compete Agreement with Mr. George Giouroukos and Conchart reflecting, among others, the provisions described below. The Non-Compete Agreement became effective on the closing of the Poseidon Transaction.

#### ***Restricted Business***

For so long as Mr. Giouroukos is our Executive Chairman, Mr. Giouroukos and any entity which he controls will agree not to acquire, own or operate containerships. However, under certain exceptions, Mr. Giouroukos, and any entity which he controls, may compete with us, which could affect our business. Specifically, Mr. Giouroukos, and any entity which he controls, will not be prevented from:

- (1) acquiring, owning, operating or chartering vessels other than containerships;
- (2) acquiring or owning one or more containerships if we decide not to exercise our right of first refusal to acquire such containership, in accordance with the terms of the Non-Compete Agreement described below under “Right of First Refusal”;
- (3) Acquiring, owning, operating or chartering one or more containerships as part of the acquisition of a controlling interest in a business or package of assets that owns, operates or charters such containerships; provided, however, that Mr. Giouroukos, and any entity which he controls must offer to sell such containership(s) to us at their fair market value plus any additional tax or other similar costs that Mr. Giouroukos, and any entity which he controls, incurs in connection with the acquisition and the transfer of such containership to us separate from the acquired business, if a majority of the value of the business or the package of assets acquired is attributable to containerships;
- (4) providing vessel management services relating to containerships, or other vessel types, including technical and commercial management, warehouse transactions for financial institutions and pool management;
- (5) Acquiring, owning, operating or chartering any containership that Mr. Giouroukos, and any entity which he controls, owned or operated or had a contractual arrangement with respect to as of the closing date of the Plan of Merger by and among Poseidon Containers Holdings LLC, K&T Marine LLC, us and other parties;
- (6) transferring to Mr. Giouroukos or any entity which he controls, title to a vessel that Mr. Giouroukos or such entity that he controls or any third party is entitled to acquire, own and operate under the Non-Compete Agreement, pursuant to or in connection with the termination of a financing arrangement, including by way of a sale and leaseback or similar transaction, which is accounted for under United States generally accepted accounting principles as a financial lease; and
- (7) acquiring, owning, operating or chartering any containership that is subject to an offer to purchase as described in paragraphs (2) and (3) above, in each case pending the offer of such containership to us and our determination whether to purchase the containership and, if so, pending the closing of such purchase.

Further to the above, notwithstanding this agreement, Mr. Giouroukos, and any entity which he controls, may claim business opportunities that would benefit us, and this could have an adverse effect on our business, results of operations, cash flows, financial condition and ability to pay dividends.

### ***Right of First Refusal***

Mr. Giouroukos, and any entity he controls, will also agree to grant us a right of first refusal to acquire any containership, after Mr. Giouroukos, or an entity controlled by him, enters into an agreement that sets forth terms upon which he or it would acquire such containership. Mr. Giouroukos, or such entity controlled by him, shall notify us within 30 days of any agreement that he, or his controlled entity, has entered into to purchase a containership and will provide a period of seven calendar days in respect of a single vessel transaction, or a period of 14 calendar days in respect of a multi-vessel transaction, from the date that he delivers such notice to us of said opportunity, within which to decide whether or not to accept the opportunity and nominate a subsidiary of ours to become the purchaser of such containership, before Mr. Giouroukos, or any entity he controls, will accept the opportunity or offer it to any of his other affiliates or entities controlled by him. The opportunity offered to us will be on no less favorable terms than those offered to Mr. Giouroukos, or entity controlled by him. The approval of our conflicts committee which is comprised of independent directors will be required to accept or reject this offer.

Upon a change of control of us, these rights of first refusal will terminate immediately. In addition, at such time that Mr. Giouroukos ceases to serve as our Executive Chairman, these rights of first refusal as applicable to Mr. Giouroukos will terminate immediately.

### ***Right of First Offer on Containerships***

Mr. Giouroukos will also agree to grant a right of first offer to us for any containership he, or any entity controlled by him, owns or acquires, upon any proposed sale, transfer, or other disposition.

Prior to entering into any transaction regarding any containership's disposition with a non-affiliated third party, Mr. Giouroukos, or such entity controlled by him, will deliver a written notice to us setting forth the material terms and conditions of the proposed transaction. During the 14-day period after the delivery of such notice, and at our election we (through our conflicts committee) and Mr. Giouroukos, or such entity controlled by him, will negotiate in good faith to reach an agreement on the transaction, which shall be approved by our conflicts committee which is comprised of independent directors. If we do not reach an agreement within such 14-day period, Mr. Giouroukos, or such entity controlled by him, as the case may be, will be able within the next 180 calendar days to sell, transfer, dispose or re-contract the containership to a third party (or to agree in writing to undertake such transaction with a third party) on terms generally no less favorable than those offered pursuant to the written notice.

Upon a change of control of us, these rights of first offer will terminate immediately. In addition, at such time that Mr. Giouroukos ceases to serve as our Executive Chairman, these rights of first offer as applicable to Mr. Giouroukos will terminate immediately.

### ***Chartering Opportunities***

If Conchart, or any entity it controls, acquires knowledge of a potential opportunity to enter into a potential charter with or without profit sharing for a particular containership that it believes in good faith would be suitable for our vessels, which we refer to as a "Potential Charter Opportunity," then Conchart, or such entity that it controls, would be obliged to offer such Potential Charter Opportunity to us and, for a period of up to two business days, we shall have the right to elect to pursue such Potential Charter Opportunity for ourselves or allow Conchart to direct such Potential Charter Opportunity to itself or another person or entity. In determining suitability of a Potential Charter Opportunity, Conchart shall take into consideration certain factors, such as the availability, suitability and positioning of the relevant vessel, the potential charterer's demands for the vessel's specifications and costs. In the event we do not elect to accept the Potential Charter Opportunity, Conchart shall be free to pursue such Potential Charter Opportunity or direct it to another person or entity for a period of 15 calendar days on the same terms and conditions as presented to us.



## Ship Management Agreements

As of December 31, 2019, Technomar provided day-to-day technical ship management services to us on all of our vessels pursuant to technical ship management agreements. Mr. George Giouroukos, our Executive Chairman, is a significant shareholder of Technomar. Technomar's services being provided under the technical ship management agreements include crewing, purchasing stores, lubricating oils and spare parts, paying wages, pensions and insurance for the crew, and organizing other vessel operating necessities, including the arrangement and management of drydocking. We pay Technomar a daily management fee of EUR 685 per vessel, to be paid in U.S. Dollars at an agreed rate of exchange, which, in addition to covering the technical ship management services being provided, includes administrative support services, including accounting and financial reporting, treasury management services and legal services also being provided pursuant to the technical ship management agreements. The technical ship management agreements with Technomar are for a minimum term of 36 months. The technical ship management agreements may be terminated by either party by giving not less than six months' prior written notice with termination to be effective no sooner than the expiry of the minimum term. If the technical ship management agreements are terminated on at least six months prior written notice, a termination fee equal to 50% of the annual management fee is payable to Technomar if the technical ship management agreements are terminated by the managers and a termination fee equal to two times the annual fee is payable to Technomar if the technical ship management agreements are terminated by the owners. Our other ship technical ship management agreements may generally be terminated by either party on two months prior written notice. The Technomar technical ship management agreements may also be terminated (i) by one party on the change of control in the other party, (ii) automatically on the insolvency of a party, (iii) by one party upon the breach by the other party of the technical ship management agreement, and (iv) upon the sale or total loss of a vessel; except where the owner is terminating the technical ship management agreements for cause, a termination fee is payable to Technomar and will range from 25% of the annual management fee to two times the annual management fee, depending on the reason for the termination.

During the year ended December 31, 2019, CMA Ships, a wholly-owned subsidiary of CMA CGM, provided day-to-day technical ship management services on 11 of our vessels. As of December 31, 2019, CMA CGM owned approximately 11.2% of voting rights and has two nominees of our Board of Directors. CMA Ship's services include the provision of crew, lubricating oils and routine maintenance. We paid CMA Ships an annual management fee of \$123,000 per vessel and reimburse costs incurred by CMA Ships on our behalf, mainly being for the provision of crew, lubricating oils and routine maintenance.

The management fees paid by us to Technomar and CMA Ships for the year ended December 31, 2019 amounted to \$9.2 million and \$0.8 million, respectively. For the year ended December 31, 2018 management fees amounted to \$0.7 million and \$1.0 million, respectively.

Conchart provides commercial management services to us on all of our vessels, other than the 18 vessels pledged as security to our 2022 Notes, pursuant to commercial management agreements. Mr. George Giouroukos, our Executive Chairman, is the sole beneficial owner of Conchart. Under the commercial management agreements, Conchart is responsible for (i) marketing of our vessels, (ii) seeking and negotiating employment of our vessels, (iii) advising us on market developments, and on the development of new rules and regulations with respect to trading and cargo restrictions, (iv) assisting in the calculation of hires, and the collection of any sums related to the operation of vessels, (v) communicating with agents, and (vi), negotiating memoranda of agreement for the sale of the vessels. Except with respect to charters with CMA CGM, we have agreed to pay Conchart a commission of 1.25% on all monies earned under each charter fixture, and we have agreed to pay Conchart a 1.00% commission on any sale and purchase transaction. No commission is payable on any charter to CMA CGM, or extension thereof, in place as of October 29, 2018. For any new charters to CMA CGM or its affiliates, the rate of commission is 0.75%. However, no commission is payable for such charters if CMA CGM or its affiliates waive their own address commission. The commercial management agreements with Conchart are for a minimum term of 36 months. The commercial management agreements may be terminated by either party by giving not less than six months' prior written notice with termination to be effective no sooner than the expiry of the minimum term. If the commercial management agreements are terminated on at least six months prior written notice, a termination fee equal to six times the average monthly commission paid by us to Conchart (or which accrued) in the prior six month period is payable to Conchart if the commercial management agreements are terminated by the managers and a termination fee equal to twelve times the average monthly commission paid by us to Conchart (or which accrued) in the prior twelve month period is payable to Conchart if the commercial management agreements are terminated by the owners. The Conchart commercial management agreements may also be terminated (i) by one party on the change of control in the other party, (ii) automatically on the insolvency of a party, (iii) by one party upon the breach by the other party of the commercial management agreement, and (iv) upon the sale or total loss of a vessel; except where the owner is terminating the commercial management agreements for cause, a termination fee is payable to Conchart and will range from three times the average monthly commission paid by us to Conchart (or which accrued) in the prior three month period to twelve times the average monthly commission paid by us to Conchart (or which accrued) in the prior twelve month period, depending on the reason for the termination.

The fees paid by us to Conchart for the year ended December 31, 2019 amounted to \$1.8 million. For the year ended December 31, 2018, fees paid to Conchart amounted to \$0.2 million.

GSLs has entered into a Commercial Advisory Services and Exclusive Brokerage Services Agreement (“EBSA”) with Conchart, whereby Conchart is appointed to provide commercial advisory and exclusive brokerage services to us on 18 of our vessels (none of which are vessels covered by the commercial management agreement with us and Conchart). Under the EBSA, Conchart shall provide GSLs brokerage services which includes the marketing of the vessels for sale, and the negotiation and execution of charters for the vessels. Except with respect to charters with CMA CGM, GSLs has agreed to pay Conchart a commission of 1.25% on all monies earned under each charter fixture, and GSLs has agreed to pay Conchart a 1.00% commission on any sale and purchase transaction. No commission is payable on any charter to CMA CGM, or extension thereof, in place as of October 29, 2018. Also, no commission is payable to Conchart in cases when not more than 30 days have elapsed between the conclusion of a new charter to CMA CGM and the end of a preexisting CMA CGM charter which was in place on October 29, 2018, provided that the relevant vessel has not been chartered to any non-CMA CGM charterer in the period between the two CMA CGM charters. For any other new charters to CMA CGM or its affiliates, the rate of commission is 0.75%; however, no commission is payable for such charters if CMA CGM or its affiliates waive their own address commission. The EBSA with Conchart is for a minimum term of three years. The EBSA may be terminated by either party by giving not less than six months’ prior written notice with termination to be effective no sooner than the expiry of the minimum term. If the EBSA is terminated on at least six months prior written notice, a termination fee equal to six times the average monthly commission paid by GSLs to Conchart (or which accrued) in the prior six month period is payable to Conchart if the EBSA is terminated by the managers and a termination fee equal to twelve times the average monthly commission paid by GSLs to Conchart (or which accrued) in the prior twelve month period is payable to Conchart if the EBSA is terminated by the owners. The EBSA may also be terminated (i) by one party on the change of control in the other party, (ii) automatically on the insolvency of a party, (iii) by one party upon the breach by the other party of the EBSA, and (iv) upon the sale or total loss of a vessel; except where GSLs is terminating the EBSA for cause, a termination fee is payable to Conchart and will range from three times the average monthly commission paid by GSLs to Conchart (or which accrued) in the prior three month period to twelve times the average monthly commission paid by GSLs to Conchart (or which accrued) in the prior twelve month period, depending on the reason for the termination.

For additional information on our related party transactions, please see the notes to our consolidated financial statements included herein.

#### **Kelso Letter Agreement**

In September 2019, we entered into an agreement with Kelso, whereby Kelso agreed to convert all of its outstanding Series C Preferred Shares into Class A common shares upon the repayment in full of our 2022 Notes.

#### **Participation in Global Ship Lease Securities Offerings**

Certain members of our executive management purchased an aggregate of 168,968 Class A common shares in the October 2019 Equity Offering at the public offering price, for which the underwriters did not receive any discount or commissions. In addition, certain members of our executive management purchased 300,000 aggregate principal amount of 2024 Notes in the November 2019 Notes Offering, for which the underwriter did not receive any discount or commissions.

### **C. Interests of Experts and Counsel**

Not applicable.

## **Item 8. Financial Information**

### **A. Consolidated Statements and Other Financial Information**

Please see “Item 18. Financial Statements” below.

### **Legal Proceedings**

We have not been involved in any legal proceedings that may have, or have had a significant effect on our business, financial position, results of operations or liquidity, and we are not aware of any proceedings that are pending or threatened that may have a material adverse effect on our business, financial position, results of operations or liquidity. From time to time, we may be subject to legal proceedings and claims in the ordinary course of business, principally personal injury and property casualty claims associated with operating containerships. We expect that these claims would be covered by insurance, subject to customary deductibles. Claims, even if lacking merit, could result in the expenditure of significant financial and managerial resources.

### **Dividend Policy**

Dividends, if any, would be based on available cash flow, rather than net income, after all relevant cash expenditures, including cash interest expense on borrowings that finance operating assets, cash income taxes and after an allowance for the cash cost of future drydockings but not including deductions for non-cash items including depreciation and amortization and changes in the fair values of financial instruments, if any.

The declaration and payment of any dividend is subject at all times to the discretion of our board of directors which reviews our dividend policy quarterly, taking into consideration capital structure, growth opportunities, industry fundamentals, asset value trends and financial performance including cash flow, restrictions under our current and future agreements governing our indebtedness, including our credit facilities and the indentures that govern our 2022 Notes, the provisions of Marshall Islands law affecting the payment of distributions to shareholders, required capital and drydocking expenditures, reserves established by our board of directors, increased or unanticipated expenses, additional borrowings or future issuances of securities and other factors, many of which will be beyond our control.

There were 1,442,800 Depositary Shares outstanding at December 31, 2019, each of which represents 1/100<sup>th</sup> of one share of our Series B Preferred Shares. Dividends on the Series B Preferred Shares are payable at 8.75% per annum in arrears on a quarterly basis, when and if declared by the Board of Directors. Following the issuance of the Series B Preferred Shares, no dividend may be declared or paid or set apart for payment on our common shares and other junior securities, unless full cumulative dividends have been or contemporaneously are being paid or declared and set aside for payment on all outstanding Series B Preferred Shares, subject to certain exceptions. See “Item 10. Additional Information—B. Memorandum and Articles of Association.” Dividends have been declared as scheduled with respect to our Series B Preferred Shares.

Our ability to pay dividends is also limited by the amount of cash we can generate from operations following the payment of fees and expenses and the establishment of any reserves as well as additional factors unrelated to our profitability. We are a holding company, and we will depend on the ability of our subsidiaries to distribute funds to us in order to satisfy our financial obligations and to pay dividend payments. Further, our board of directors may elect to not distribute any dividends or may significantly reduce the dividends. As a result, the amount of dividends actually paid, if any, may vary from the amount previously paid and such variations may be material. See “Item 3. Key Information—D. Risk Factors” for a discussion of the risks associated with our ability to pay dividends.

Marshall Islands law generally prohibits the payment of dividends other than from surplus (retained earnings and the excess of consideration received for the sale of shares above the par value of the shares) or while a company is insolvent or would be rendered insolvent by the payment of such a dividend.

We believe that, under current U.S. federal income tax law, some portion of the distributions you receive from us will constitute dividends and, if you are an individual that is a citizen or resident of the United States and that meets certain holding period and other requirements, such dividends will be treated as “qualified dividend income” subject to tax at preferential rates. See “Item. 10. Additional Information—E. Taxation—Tax Consequences of Holding Class A common shares —Taxation of distributions paid on Class A common shares” for information regarding the eligibility requirements for “qualified dividend income.”

**B. Significant Changes**

None.

**Item 9. The Offer and Listing.**

**A. Offer and Listing Details**

Please see “Item 9. Offer and the Listing—C. Markets.”

**B. Plan of Distribution**

Not applicable

**C. Markets**

On August 15, 2008, our Class A common shares began trading on the NYSE under the symbol “GSL”. On August 20, 2014, our Depositary Shares, each of which represents a 1/100th interest in a share of our Series B Preferred Shares, began trading on the NYSE under the symbol “GSL-B”. On November 19, 2019, our 2024 Notes began trading on the NYSE under the symbol “GSLD”.

**D. Selling Shareholders**

Not applicable

**E. Dilution**

Not applicable

**F. Expenses of the Issue**

Not applicable

**Item 10. Additional Information**

**A. Share Capital**

Not applicable.

**B. Memorandum and Articles of Association**

Our Amended and Restated Articles of Incorporation have previously been filed as Exhibit 3.1 to Amendment No. 1 to our Registration Statement on Form 8-A (File No. 001-34153) filed with the SEC on March 26, 2019 and are hereby incorporated by reference into this Annual Report. Articles of Amendment to the Amended and Restated Articles of Incorporation have previously been filed as Exhibit 3.3 to our Report on Form 6-K, filed with the SEC on March 25, 2019 and are hereby incorporated by reference into this Annual Report. Our Third Amended and Restated Bylaws have previously been filed as Exhibit 99.1 to our Report on Form 6-K filed with the SEC on March 23, 2020 and are hereby incorporated by reference into this Annual Report.

The necessary actions required to change the rights of shareholders and the conditions governing the manner in which annual general meetings and special meetings of shareholders are convoked are described in our Amended and Restated Articles of Incorporation, as amended, and Third Amended and Restated Bylaws and are hereby incorporated by reference into this Annual Report.

The rights, preferences and restrictions attaching to each class of shares of our capital stock are described in the sections “Description of Capital Shares” and “Description of Preferred Shares” of the Amendment No. 1 to our registration statement on Form F-3 (File No. 333-197518) filed with the SEC on July 28, 2014 and hereby incorporated by reference into this Annual Report. The rights, preferences and restrictions attaching to our Depositary Shares and Series B Preferred Shares are described in the sections “Description of Preferred Shares” and “Description of Depositary Shares” of our registration statement on Form F-3 (File No. 333-235305) filed with the SEC on November 27, 2019 and incorporated by reference into this Annual Report. There have been no changes since that date, other than the issuance of Series B Preferred Shares and Depositary Shares pursuant to our Depositary Shares ATM Program, as described below.

On August 20, 2014, we issued 1,400,000 Depositary Shares, each of which represents 1/100th of one share of our Series B Preferred Shares. A further 42,800 Depositary Shares were issued during the year ended December 31, 2019 under our Depositary Shares ATM Program. Each Series B Preferred Share has the right to receive the liquidation preference of \$2,500.00 per share (equivalent to \$25.00 per depositary share) plus an amount equal to all accumulated and unpaid dividends thereon to the date of payment, whether or not declared. Dividends are payable at 8.75% per annum in arrears on a quarterly basis, when and if declared by the Board of Directors. Following the issuance of our Series B Preferred Shares, no dividend may be declared or paid or set apart for payment on our common stock and each other class or series of capital stock established after the original issue date of the Series B Preferred Shares that is not expressly made senior to or on parity with the Series B Preferred Shares as to the payment of dividends and amounts payable upon liquidation, dissolution or winding up, whether voluntary or involuntary (“Junior Securities”) (other than a dividend payable solely in Junior Securities), unless full cumulative dividends have been or contemporaneously are being paid or declared and set aside for payment on all outstanding Series B Preferred Shares and any securities that rank *pari passu* with the Series B Preferred Shares through the most recent respective dividend payment dates. Holders of the Series B Preferred Shares generally have no voting rights, except in limited circumstances. The Series B Preferred Shares may be redeemed at any time, at our discretion, in whole or in part, at a redemption price of \$2,500.00 per share (equivalent to \$25.00 per depositary share). The rights, preferences and restrictions attaching to the Series B Preferred Shares are described in the sections “Description of Preferred Shares” and “Description of Depositary Shares” of our registration statement on Form F-3 (File No. 333-235305) filed with the SEC on November 27, 2019 and incorporated by reference into this Annual Report. There have been no changes since that date with the exception of the issuance of further Series B Preferred Shares in connection with our Depositary Shares ATM Program. The rights, preferences and restrictions attaching to the Series B Preferred Shares are further qualified by (i) the Certificate of Designations of Global Ship Lease, Inc., filed with the Registrar or Deputy Registrar of Corporations of the Republic of the Marshall Islands and effective August 19, 2014, (ii) the Certificate of Amendment to the Certificate of Designations of Global Ship Lease, Inc., filed with the Registrar or Deputy Registrar of Corporations of the Republic of the Marshall Islands and effective December 9, 2019 and (iii) the Deposit Agreement, dated as of August 20, 2014, by and among Global Ship Lease, Inc., Computershare Inc. and Computershare Trust Company, N.A., as applicable, as depositary, registrar and transfer agent, and the holders from time to time of the depositary receipts described therein (each of (i) and (iii) being incorporated by reference to Exhibits 3.1 and 4.1, respectively, of Global Ship Lease, Inc.’s Report on Form 6-K filed on August 20, 2014 and (ii) being incorporated by reference to Exhibit 3.1 of Global Ship Lease Inc.’s Report on Form 6-K filed on December 10, 2019), each of which is hereby incorporated by reference into this Annual Report. There have been no changes since the respective dates.

On November 15, 2018, we issued 250,000 Series C Preferred Shares of par value \$0.01 per share. The Series C Preferred Shares are convertible to an aggregate of 12,955,187 Class A common shares under certain circumstances, including on the date when our 2022 Notes are no longer outstanding. In addition, the Series C Preferred Shares will convert automatically upon transfer to any person who is not an affiliate of the initial holder of such Series C Preferred Shares. Upon the occurrence of any liquidation, dissolution or winding up of our affairs, holders of Series C Perpetual Shares shall be entitled to receive an amount equal to the amount payable in respect of the number of Class A common shares into which such Series C Preferred Shares would be convertible at such time, such amount to be determined as of the record date for determination of holders of Class A common shares entitled to receive such distribution or, if no such record date is established, as of the date of such distribution. Holders of Series C Preferred Shares are entitled to a dividend only should such a dividend be declared on our Class A common shares. If our Board of Directors declares a dividend or other distribution upon the then-outstanding Class A common shares, then the holders of the Series C Preferred Shares shall be entitled to receive the amount of dividends as would be payable in respect of the number of Class A common shares into which such Series C Preferred Shares would be convertible. Each Series C Preferred Share shall entitle the holder thereof to 38.75 votes on all matters submitted to a vote of shareholders. Except as otherwise provided in the Certificate of Designation for Series C Preferred Shares or required by law, the Series C Preferred Shares shall vote together with the Common Shares as one class in the election of directors of the Company and on all other matters submitted to a vote of the shareholders. The Series C Preferred Shares shall be perpetual and shall not be subject to mandatory redemption, sinking fund or other similar provisions. The rights, preferences and restrictions attaching to the Series C Preferred Shares are described in the Certificate of Designation for Series C Perpetual Preferred Shares of Global Ship Lease, Inc. (incorporated by reference to Exhibit A of Global Ship Lease, Inc.'s Report on Form 6-K filed on October 29, 2018) and hereby incorporated by reference into this Annual Report. There have been no changes since that date.

We are not aware of any limitations on the rights to own securities, including the rights of non-resident or foreign shareholders to hold or exercise voting rights on the securities, imposed by the laws of the Republic of the Marshall Islands or by our Articles of Incorporation or Bylaws.

### **Registration Rights Agreements**

In connection with registered public offering of our Class A common shares that closed on October 1, 2019, or the October 2019 Offering, we have entered into a registration rights agreement with certain affiliates of B. Riley FBR, Inc., or the B. Riley Affiliates, the underwriter in the October 2019 Offering, pursuant to which we agreed to register any shares of our Class A common stock held by the B. Riley Affiliates following the completion of the October 2019 Offering to the extent such shares constitute “restricted” or “control” securities under applicable rules and regulations of the Commission, or the B. Riley Registration Rights Agreement. The B. Riley Registration Rights Agreement provides the B. Riley Affiliates with certain piggyback and demand registration rights, and contains customary indemnification and other provisions.

We also have a registration rights agreement with certain of our major shareholders that was amended and restated in October 2018. For a description of the Amended and Restated Registration Rights Agreement, please see “Item 7. Major Shareholders and Related Party Transactions—B. Related Party Transactions.”

### **C. Material Contracts**

We refer you to “Item 4. Information on the Company—B. Business Overview,” “Item 5. Operating and Financial Review and Prospects—B. Liquidity and Capital Resources—Liquidity, Working Capital and Dividends—Indebtedness,” “Item 7. Major Shareholders and Related Party Transactions—B. Related Party Transactions” for a discussion of the contracts that we consider to be both material and outside the ordinary course of business during the two-year period immediately preceding the date of this Annual Report. Certain of these material agreements that are to be performed in whole or in part after the date of this annual report are attached as exhibits to this Annual Report.

Other than as discussed in this Annual Report, we have no material contracts, other than contracts entered into in the ordinary course of business, to which we are a party.

## D. Exchange Controls

We are not aware of any governmental laws, decrees or regulations in the Republic of the Marshall Islands that restrict the export or import of capital, including foreign exchange controls, or that affect the remittance of dividends, interest or other payments to non-resident holders of our securities.

## E. Taxation

The following represents the opinion of our United States and Marshall Islands tax counsel, Seward & Kissel LLP, and is a summary of the material U.S. federal income tax and Marshall Islands tax consequences of the ownership and disposition of our Class A common shares.

This section is based on current provisions of the Code, current and proposed Treasury regulations promulgated thereunder, and administrative and judicial decisions as of the date hereof, all of which are subject to change or differing interpretation, possibly on a retroactive basis. Changes in these authorities may cause the tax consequences of Class A common share ownership to vary substantially from the consequences described below.

This section does not purport to be a comprehensive description of all of the tax considerations that may be relevant to us or each investor. This section does not address all aspects of U.S. federal income taxation that may be relevant to any particular investor based on such investor's individual circumstances. In particular, this section considers only investors that will own Class A common shares as capital assets and does not address the potential application of the alternative minimum tax or the U.S. federal income tax consequences to investors that are subject to special treatment, including:

- broker-dealers;
- insurance companies;
- taxpayers who have elected mark-to-market accounting;
- tax-exempt organizations;
- regulated investment companies;
- real estate investment trusts;
- financial institutions or "financial services entities";
- taxpayers who hold Class A common shares as part of a straddle, hedge, conversion transaction or other integrated transaction;
- taxpayers required to recognize income for U.S. federal income tax purposes no later than when such income is reported on an "applicable financial statement";
- taxpayers that are subject to the "base-erosion and anti-avoidance" tax;
- taxpayers that own 10% or more, directly or constructively, of our common shares;
- certain expatriates or former long-term residents of the United States; and
- U.S. holders (as defined herein) whose functional currency is not the U.S. dollar.

No ruling has been or will be requested from the IRS regarding any matter affecting us or our shareholders. The statements made herein may be challenged by the IRS and, if so challenged, may not be sustained upon review in a court.

The following does not address any aspect of U.S. federal gift or estate tax laws, or state or local tax laws. Additionally, the section does not consider the tax treatment of partnerships or other pass-through entities or persons who hold our Class A common shares through such entities. Shareholders should consult their tax advisors regarding the specific tax consequences to them of the acquisition, holding or disposition of our Class A common shares, in light of their particular circumstances.

## **Taxation of Global Ship Lease**

### *Taxation of operating income*

Unless exempt from U.S. federal income taxation under the rules described below in “The Section 883 exemption,” a foreign corporation that earns only transportation income is generally subject to U.S. federal income taxation under one of two alternative tax regimes: (1) the 4% gross basis tax or (2) the net basis tax and branch profits tax.

#### *The 4% gross basis tax*

For foreign corporations not engaged in a U.S. trade or business, the United States imposes a 4% U.S. federal income tax (without allowance of any deductions) on the corporation’s U.S. source gross transportation income. For this purpose, transportation income includes income from the use, hiring or leasing of a vessel, or the performance of services directly related to the use of a vessel (and thus includes time charter and bareboat charter income). The U.S. source portion of transportation income includes 50% of the income attributable to voyages that begin or end (but not both) in the United States. Generally, no amount of the income from voyages that begin and end outside the United States is treated as U.S. source, and consequently none of the transportation income attributable to such voyages is subject to this 4% tax. Although the entire amount of transportation income from voyages that begin and end in the United States would be U.S. source, we do not expect to have any transportation income from voyages that begin and end in the United States.

#### *The net basis tax and branch profits tax*

We do not expect to engage in any activities in the United States or otherwise have a fixed place of business in the United States. Nonetheless, if this situation were to change or were we to be treated as engaged in a U.S. trade or business, all or a portion of our taxable income, including gains from the sale of vessels, could be treated as effectively connected with the conduct of this U.S. trade or business, or effectively connected income. Any effectively connected income would be subject to U.S. federal corporate income tax, currently imposed at a rate of 21%. In addition, an additional 30% branch profits tax would be imposed on us at such time as our after-tax effectively connected income is viewed as having been repatriated to our offshore office. The 4% gross basis tax described above is inapplicable to income that is treated as effectively connected income.

#### *The Section 883 exemption*

Both the 4% gross basis tax and the net basis and branch profits taxes described above are inapplicable to U.S. source transportation income that qualifies for exemption under Section 883 of the Code. To qualify for the Section 883 exemption, a foreign corporation must, among other things:

- be organized in a jurisdiction outside the United States that grants an equivalent exemption from tax to corporations organized in the United States, which we call an Equivalent Exemption;
- satisfy one of the following three ownership tests (discussed in more detail below): (1) the more than 50% ownership test, or 50% Ownership Test, (2) the controlled foreign corporation test, or CFC Test or (3) the “Publicly Traded Test”; and



meet certain substantiation, reporting and other requirements (that include the filing of U.S. income tax returns).

We are organized under the laws of the Marshall Islands. Each of the vessels in the fleet is owned by a separate wholly owned subsidiary organized either in the Marshall Islands, Cyprus or Hong Kong. The U.S. Treasury Department recognizes the Marshall Islands, Cyprus and Hong Kong as jurisdictions that grant an Equivalent Exemption; therefore, we should meet the first requirement for the Section 883 exemption. Additionally, we intend to comply with the substantiation, reporting and other requirements that are applicable under Section 883 of the Code. As a result, qualification for the Section 883 exemption will turn primarily on our ability to satisfy the second requirement enumerated above.

*(1) The 50% Ownership Test*

In order to satisfy the 50% Ownership Test, a non-U.S. corporation must be able to substantiate that more than 50% of the value of its stock is owned, directly or indirectly, by “qualified shareholders.” For this purpose, qualified shareholders include: (1) individuals who are residents (as defined in the regulations promulgated under Section 883 of the Code, or Section 883 Regulations) of countries, other than the United States, that grant an Equivalent Exemption, (2) non-U.S. corporations that meet the Publicly Traded Test of the Section 883 Regulations and are organized in countries that grant an Equivalent Exemption, or (3) certain foreign governments, non-profit organizations, and certain beneficiaries of foreign pension funds. A corporation claiming the Section 883 exemption based on the 50% Ownership Test must obtain all the facts necessary to satisfy the IRS that the 50% Ownership Test has been satisfied (as detailed in the Section 883 Regulations). We believe that we satisfied the 50% Ownership Test, up to and including 2008, due to being a wholly owned subsidiary of CMA CGM until the Marathon Merger on August 14, 2008, but believe that we currently may not be able to satisfy the 50% Ownership Test due to our lack of knowledge of the direct and indirect owners of entities which own our Class A common shares.

*(2) The CFC Test*

The CFC Test requires that the non-U.S. corporation be treated as a controlled foreign corporation, or CFC, for U.S. federal income tax purposes. We believe that we are not a CFC but cannot predict whether we will become a CFC, and satisfaction of the CFC definitional test is outside of our control.

*(3) The Publicly Traded Test*

The Publicly Traded Test requires that one or more classes of equity representing more than 50% of the voting power and value in a non-U.S. corporation be “primarily and regularly traded” on an established securities market either in the United States or in a foreign country that grants an Equivalent Exemption.

The Section 883 Regulations provide, in pertinent part, that stock of a non-U.S. corporation will be considered to be “primarily traded” on an established securities market in a given country if the number of shares of each class of stock that are traded during any taxable year on all established securities markets in that country exceeds the number of shares in each such class that are traded during that year on established securities markets in any other single country. Our Class A common shares are listed on the NYSE and are not listed on any other securities exchange. Therefore, our Class A common shares should be treated as primarily traded on an established securities market in the United States.

The Section 883 Regulations also generally provide that stock will be considered to be “regularly traded” on an established securities market if one or more classes of stock in the corporation representing in the aggregate more than 50% of the total combined voting power and value of all classes of stock of the corporation are listed on an established securities market during the taxable year. However, even if a class of shares is so listed, it is not treated as regularly traded under the Section 883 Regulations unless (1) trades are made in the shares on the established securities market, other than in minimal quantities, on at least 60 days during the taxable year (or 1/6 of the days in a short taxable year); and (2) the aggregate number of shares traded on the established securities market during the taxable year is at least 10% of the average number of outstanding shares of that class during that year (as appropriately adjusted in the case of a short taxable year). Even if these trading frequency and trading volume tests are not satisfied with respect to the Class A common shares, however, the Section 883 Regulations provide that such tests will be deemed satisfied if the Class A common shares are regularly quoted by dealers making a market in such Class A common shares. While we anticipate that these trading frequency and trading volume tests will be satisfied each year, satisfaction of these requirements is outside of our control and, hence, no assurances can be provided that we will satisfy the Publicly Traded Test each year. However, the Class A common shares may not represent more than half of the voting power or value of all classes of our stock.

In addition, even if the “primarily and regularly traded” tests described above are satisfied, a class of stock will not be treated as primarily and regularly traded on an established securities market if, during more than half the number of days during the taxable year, one or more shareholders holding, directly or indirectly, at least 5% of the vote and value of that class of stock, or 5% Shareholders, own, in the aggregate, 50% or more of the vote and value of that class of stock. This is referred to as the 5% Override Rule. In performing the analysis, we are entitled to rely on current Schedule 13D and 13G filings with the SEC to identify our 5% Shareholders, without having to make any independent investigation to determine the identity of the 5% Shareholder. In the event the 5% Override Rule is triggered, the Section 883 Regulations provide that the 5% Override Rule will nevertheless not apply if the company can establish that among the closely-held group of 5% Shareholders, sufficient shares are owned by 5% Shareholders that are considered to be “qualified shareholders,” as defined above, to preclude non-qualified 5% Shareholders in the closely-held group from owning 50% or more of the total value of the relevant class of stock held by 5% Shareholders for more than half the number of days during the taxable year.

Based on information that we have as to our shareholders and other matters, we believed that we qualified for the Section 883 exemption for 2009 through 2018 under the Publicly Traded Test. We did not believe that we were able to satisfy the “publicly-traded” test for 2019 and, consequently, we were not exempt from U.S. federal income taxation on our U.S. source gross transportation income. Whether we may satisfy the “publicly-traded” test for 2020 and future taxable years depends on factors that are outside of our control, and we cannot provide any assurances that we will or will not satisfy the “publicly-traded” test to claim exemption from U.S. taxation for 2020 or future taxable years.

If we were not to qualify for the Section 883 exemption in any year, the U.S. income taxes that become payable could have a negative effect on our business, and could result in decreased earnings available for distribution to our shareholders. However, under our charter agreements, the charterers have agreed to provide reimbursement for any such taxes.

#### *United States taxation of gain on sale of vessels*

If we qualify for the Section 883 exemption, then gain from the sale of any vessel may be exempt from tax under Section 883. Even if such gain is not exempt from tax under Section 883, we will not be subject to U.S. federal income taxation with respect to such gain, assuming that we are not, and have never been, engaged in a U.S. trade or business. Under certain circumstances, if we are so engaged, gain on sale of vessels could be subject to U.S. federal income tax.

#### *Possibility of taxation as a U.S. corporation*

Section 7874 of the Code provides that a foreign corporation that acquires substantially all the properties of a U.S. corporation is generally treated as though it were a U.S. corporation for U.S. federal income tax purposes if, after the acquisition, (1) at least 80% (by vote or value) of the stock of the foreign corporation is owned by former shareholders of the U.S. corporation by reason of owning stock in the U.S. corporation, and (2) the foreign corporation’s expanded affiliate group does not have substantial business activities in the foreign corporation’s jurisdiction of organization. Although we believe that this rule should not apply to us in the context of the Marathon Merger, there is no definitive legal authority applying the principles of Section 7874 of the Code and, therefore, there can be no assurance that the IRS would not seek to challenge such a position, or that such a challenge would not be successful.

If we were to be treated as a U.S. corporation, our net income would be subject to U.S. federal corporate income tax, currently imposed at a rate of 21%. The imposition of this tax would likely have a negative effect on our business, financial condition and results of operations.

## Tax Consequences of Holding Class A common shares

### *U.S. holders*

For purposes of this discussion, a U.S. holder is a beneficial owner of our Class A common shares that owns (actually or constructively) less than 10% of our equity and that is:

- an individual who is a citizen or resident of the United States (as determined for U.S. federal income tax purposes);
- a corporation (or other entity taxed as a corporation for U.S. federal income tax purposes) created or organized under the laws of the United States, any state thereof or the District of Columbia;
- an estate whose income is includible in gross income for U.S. federal income tax purposes regardless of its source; or
- a trust if (i) a court within the United States is able to exercise primary supervision over the administration of the trust and one or more U.S. persons have the authority to control all substantial decisions of the trust, or (ii) it has in effect a valid election to be treated as a U.S. person.

### *Taxation of distributions paid on Class A common shares*

When we make a distribution with respect to our Class A common shares, subject to the discussions of the passive foreign investment company, or PFIC rules below, a U.S. holder will be required to include in gross income as foreign source dividend income the amount of the distribution to the extent paid out of our current or accumulated earnings and profits as determined for U.S. federal income tax purposes. Distributions in excess of such earnings and profits will be applied against and will reduce the U.S. holder's tax basis in the Class A common shares and, to the extent in excess of such basis, will be treated as gain from the sale or exchange of the Class A common shares.

Subject to the discussions of the PFIC rules below, in the case of a U.S. holder that is a corporation, dividends that we pay will generally be taxable at the regular corporate rate of 21% and generally will not qualify for a dividends-received deduction available for dividends received from U.S. corporations. In the case of certain non-corporate U.S. holders, dividends that we pay generally will be treated as "qualified dividend income" subject to tax at preferential rates, provided that the Class A common shares are listed on an established securities market in the United States (such as the NYSE), the U.S. holder meets certain holding period and other requirements and we are not a PFIC in the taxable year in which the dividends are paid or in the immediately preceding taxable year. Special rules may apply to any "extraordinary dividend" paid by us. An extraordinary dividend is, generally, a dividend with respect to a share if the amount of the dividend is equal to or in excess of 10 percent of a shareholder's adjusted basis (or fair market value in certain circumstances) in such share. In addition, extraordinary dividends include dividends received within a one-year period that, in the aggregate, equal or exceed 20% of a U.S. holder's tax basis (or fair market value). If we pay an "extraordinary dividend" on our Class A common shares that is treated as "qualified dividend income," then any loss derived by certain non-corporate U.S. holders from the sale or exchange of such shares will be treated as long-term capital loss to the extent of the amount of such dividend.

### *Taxation of the disposition of Class A common shares*

Subject to the discussions of the PFIC rules below, upon the sale, exchange or other disposition of Class A common shares, a U.S. holder will recognize capital gain or loss in an amount equal to the difference between the amount realized on the disposition and such U.S. holder's tax basis in our Class A common shares. The U.S. holder's initial tax basis in its Class A common shares generally will be the U.S. holder's purchase price for the Class A common shares and that tax basis will be reduced (but not below zero) by the amount of any distributions on the units that are treated as non-taxable returns of capital, as discussed above under '*Taxation of distributions paid on Class A common shares.*'

Subject to the discussions of the PFIC rules below, capital gain from the sale, exchange or other disposition of Class A common shares held more than one year is long-term capital gain, and is eligible for a reduced rate of taxation for individuals. Gain recognized by a U.S. holder on a sale, exchange or other disposition of Class A common shares generally will be treated as U.S. source income. A loss recognized by a U.S. holder on the sale, exchange or other disposition of Class A common shares generally will be allocated to U.S. source income. The deductibility of a capital loss recognized on the sale, exchange or other disposition of Class A common shares may be subject to limitations, and U.S. holders may want to consult their own tax advisors regarding their ability to deduct any such capital loss in light of their particular circumstances.

#### *3.8% tax on net investment income*

A U.S. holder that is an individual, estate, or, in certain cases, a trust, will generally be subject to a 3.8% tax on the lesser of (1) the U.S. holder's net investment income (or undistributed net investment income in the case of an estate or trust) for the taxable year and (2) the excess of the U.S. holder's modified adjusted gross income for the taxable year over a certain threshold (which in the case of individuals is between \$125,000 and \$250,000). A U.S. holder's net investment income will generally include distributions made by us that constitute dividends and gain upon a sale, exchange or other disposition of our Class A common shares. This tax is in addition to any income taxes due on such investment income.

If you are a U.S. holder that is an individual, estate or trust, you are encouraged to consult your tax advisors regarding the applicability of the 3.8% tax on net investment income to the ownership of our Class A common shares.

#### *Consequences of possible passive foreign investment company classification*

A non-U.S. entity treated as a corporation for U.S. federal income tax purposes will be a PFIC in any taxable year in which, after taking into account the income and assets of the corporation and certain subsidiaries pursuant to a "look through" rule, either: (1) 75% or more of its gross income is "passive" income or (2) 50% or more of the average value of its assets is attributable to assets that produce passive income or are held for the production of passive income. For purposes of these tests, "passive income" includes dividends, interest and gains from the sale or exchange of investment property and rents and royalties other than rents and royalties which are received from unrelated parties in connection with the active conduct of a trade or business; income derived from the performance of services does not, however, constitute "passive income." The determination of whether a corporation is a PFIC is made annually. If a corporation is a PFIC in any taxable year that a person holds stock in the corporation (and was not a qualified electing fund with respect to such year, as discussed below), the stock held by such person will be treated as stock in a PFIC for all future years (absent an election which, if made, may require the electing person to pay taxes in the year of the election).

Based on the projected composition of our income and valuation of our assets, we do not expect that we will constitute a PFIC with respect to the current or any future taxable year, although there can be no assurance in this regard. Our expectation is based principally on the position that, for purposes of determining whether we are a PFIC, the majority, if not all, of the gross income we derive from our chartering activities should constitute services income rather than rental income.

In this regard, we have been advised by our tax advisor that the income from our chartering activities is, more likely than not, services income. There is, however, no direct legal authority under the PFIC rules addressing our current and projected future operations or supporting our position. Accordingly, no assurance can be given that the IRS will not assert that we are a PFIC with respect to any taxable year, nor that a court would not uphold any such assertion and we have not obtained advice from our tax advisor on whether we are a PFIC.

Further, in a case not concerning PFICs, *Tidewater Inc. v. U.S.*, 2009-1 USTC ¶ 50,337, the Fifth Circuit held that a vessel time charter at issue generated rental, rather than services, income. However, the court's ruling was contrary to the position of the IRS that the time charter income should be treated as services income. Subsequently, the IRS has stated that it disagrees with and will not acquiesce to the rental versus services distinction in the *Tidewater* decision, and in its discussion stated that the time charters at issue in *Tidewater* would be treated as producing services income for PFIC purposes. The IRS's statement with respect to *Tidewater* cannot be relied upon or otherwise cited as precedent by taxpayers. Further, the facts in *Tidewater* are not directly analogous to our facts. Consequently, no assurance can be given that the IRS or a court of law would accept our position, and there is a risk that the IRS or a court of law could determine that the company is a PFIC.

If we were to be classified as a PFIC in any year, each U.S. holder of our Class A common shares that does not make a timely qualified electing fund or mark-to-market election (as discussed below) will be subject (in that year and all subsequent years) to special rules with respect to: (1) any “excess distribution” (generally defined as any distribution received by a U.S. holder in a taxable year that is greater than 125% of the average annual distributions received by the U.S. holder in the three preceding taxable years or, if shorter, the U.S. holder’s holding period for the Class A common shares), and (2) any gain realized upon the sale or other disposition of the Class A common shares. Under these rules:

- the excess distribution or gain will be allocated ratably over the U.S. holder’s holding period for our Class A common shares;
- the amount allocated to the current taxable year and any year prior to the first year in which we were a PFIC will be taxed as ordinary income in the current year; and
- the amount allocated to each of the other taxable years in the U.S. holder’s holding period for our Class A common shares will be subject to U.S. federal income tax at the highest rate in effect for the applicable class of taxpayer for that year, and an interest charge will be added as though the amount of the taxes computed with respect to these other taxable years were overdue.

In addition, each U.S. holder of our Class A common shares will generally be required to file an IRS Form 8621 if such U.S. holder holds its shares in any year in which we were classified as a PFIC.

In order to avoid the application of the PFIC rules discussed above with respect to excess distributions and realized gains, U.S. holders of our Class A common shares may make a qualified electing fund, or a QEF, election provided in Section 1295 of the Code. In lieu of the PFIC rules discussed above, a U.S. holder that makes a valid QEF election will, in very general terms, be required to include its pro rata share of our ordinary income and net capital gains, unreduced by any prior year losses, in income for each taxable year (as ordinary income and long-term capital gain, respectively) and to pay tax thereon, even if the amount of that income is not the same as the distributions paid on the Class A common shares during the year. If we later distribute the income or gain on which the U.S. holder has already paid taxes under the QEF rules, the amounts so distributed will not again be subject to tax in the hands of the U.S. holder. A U.S. holder’s tax basis in any Class A common shares as to which a QEF election has been validly made will be increased by the amount included in such U.S. holder’s income as a result of the QEF election and decreased by the amount of nontaxable distributions received by the U.S. holder. On the disposition of a common share, a U.S. holder making the QEF election generally will recognize capital gain or loss equal to the difference, if any, between the amount realized upon such disposition and its adjusted tax basis in the common share. In general, a QEF election should be made on or before the due date for filing a U.S. holder’s federal income tax return for the first taxable year for which we are a PFIC or, if later, the first taxable year for which the U.S. holder held common stock. In this regard, a QEF election is effective only if certain required information is made available by the PFIC. Subsequent to the date that we first determine that we are a PFIC, we will use commercially reasonable efforts to provide any U.S. holder of Class A common shares, upon request, with the information necessary for such U.S. holder to make the QEF election. If we do not believe that we are a PFIC for a particular year but it is ultimately determined that we were a PFIC, it may not be possible for a holder to make a QEF election for such year.

In addition to the QEF election, Section 1296 of the Code permits U.S. persons to make a “mark-to-market” election with respect to marketable stock in a PFIC. If a U.S. holder of our Class A common shares makes a mark-to-market election, such U.S. holder generally would, in each taxable year that we are a PFIC: (1) include as ordinary income the excess, if any, of the fair market value of the Class A common shares at the end of the taxable year over such U.S. holder’s adjusted tax basis in the Class A common shares, and (2) be permitted an ordinary loss in respect of the excess, if any, of such U.S. holder’s adjusted tax basis in the Class A common shares over their fair market value at the end of the taxable year, but only to the extent of the net amount previously included in income as a result of the mark-to-market election (with the U.S. holder’s basis in the Class A common shares being increased and decreased, respectively, by the amount of such ordinary income or ordinary loss). If a U.S. holder makes an effective mark-to-market election, any gain such U.S. holder recognizes upon the sale or other disposition of our Class A common shares in a year that we are a PFIC will be treated as ordinary income and any loss will be treated as ordinary loss, but only to the extent of the net amount previously included in income as a result of the mark-to-market election. The consequences of this election are generally less favorable than those of a QEF election for U.S. holders that are sensitive to the distinction between ordinary income and capital gain, although this is not necessarily the case. U.S. holders should consult their tax advisors as to the consequences to them of making a mark-to-market or QEF election, as well as other U.S. federal income tax consequences of holding stock in a PFIC in light of their particular circumstances.

As previously indicated, if we were to be classified as a PFIC for a taxable year in which we pay a dividend or the immediately preceding taxable year, dividends paid by us would not constitute “qualified dividend income” and, hence, would not be eligible for the preferential rates of U.S. federal income tax that apply to certain non-corporate U.S. holders.

If we are classified as a PFIC for any taxable year during which a U.S. holder holds our Class A common shares and any of our non-U.S. subsidiaries is also classified as a PFIC, such U.S. holder will be treated as owning a proportionate amount (by value) of the shares of the lower-tier PFIC for purposes of the application of the PFIC rules. U.S. holders are urged to consult their tax advisors about the application of the PFIC rules to any of our subsidiaries.

#### *Non-U.S. holders*

For purposes of this discussion, a non-U.S. holder is a beneficial owner of our Class A common shares that is neither a U.S. holder nor a partnership (or any other entity taxed as a partnership for U.S. federal income tax purposes).

A non-U.S. holder will generally not be subject to U.S. federal income tax on dividends paid in respect of the Class A common shares or on gains recognized in connection with the sale or other disposition of the Class A common shares, provided, in each case, that such dividends or gains are not effectively connected with the non-U.S. holder’s conduct of a U.S. trade or business. However, even if not engaged in a U.S. trade or business, individual non-U.S. holders may be subject to tax on gain resulting from the disposition of our Class A common shares if they are present in the U.S. for 183 days or more during the taxable year in which those Class A common shares are disposed and meet certain other requirements.

Dividends or gains that are effectively connected with a non-U.S. holder’s conduct of a U.S. trade or business (and, if required by an applicable income tax treaty, are attributable to a U.S. permanent establishment) are subject to U.S. federal income tax on a net income basis in the same manner as if the non-U.S. holder were a U.S. holder, and may be subject to an additional “branch profits tax” at a 30% rate or such lower rate as may be specified by an applicable income tax treaty.

If we are treated as a U.S. corporation pursuant to Section 7874 of the Code, non-U.S. holders generally will be subject to withholding tax at a rate of 30% on all dividends paid by us, unless a reduced rate of tax is available under a tax treaty or the dividends are exempt from withholding because they are effectively connected with a non-U.S. holder’s conduct of a U.S. trade or business (and, in each case, the relevant certification requirements are satisfied).

#### **Information Reporting and Back-up Withholding**

U.S. holders generally are subject to information reporting requirements with respect to dividends paid on Class A common shares, and on the proceeds from the sale, exchange or disposition of Class A common shares. In addition, a holder may be subject to back-up withholding (currently at 24%) on dividends paid on Class A common shares, and on the proceeds from the sale, exchange or other disposition of Class A common shares, unless the holder provides certain identifying information, such as a duly executed IRS Form W-9, W-8BEN or W-8BEN-E, or otherwise establishes an exemption. Back-up withholding is not an additional tax and the amount of any back-up withholding will be allowable as a credit against a holder’s U.S. federal income tax liability and may entitle such holder to a refund, provided that certain required information is timely furnished to the IRS.

## **Tax Consequences of Holding 8.75% Series B Cumulative Redeemable Perpetual Preferred Shares**

Our Series B Preferred Shares are treated as equity rather than debt for U.S. federal income tax purposes. Similar considerations apply as those described above in “—Tax Consequences of Holding Class A common shares.” Prospective investors should consult their tax advisors regarding the specific tax consequences to them of the acquisition, holding or disposition of our Series B Preferred Shares, in light of their particular circumstances.

### **Marshall Islands Taxation**

In the opinion of our Marshall Islands tax counsel, Seward & Kissel LLP, because we do not (and do not expect in the future that we will) conduct business or operations in the Republic of The Marshall Islands, we are not subject to income, capital gains, profits or other taxation under current Marshall Islands law. Distributions on our Class A common shares or on our Series B Preferred Shares will not be subject to Marshall Islands withholding tax.

### **Other Taxation**

We are subject to taxation in certain non-U.S. jurisdictions because we are either organized, or conduct business or operations, in such jurisdictions. We intend that our business and the business of our subsidiaries will be conducted and operated in a manner that minimizes taxes imposed upon us and our subsidiaries. However, we cannot assure this result as tax laws in these or other jurisdictions may change or we may enter into new business transactions relating to such jurisdictions, which could affect our tax liability.

#### **F. Dividends and Paying Agents**

Not applicable.

#### **G. Statements by Experts**

Not applicable.

#### **H. Documents on Display**

We filed reports and other information with the SEC. These materials, including this annual report and the accompanying exhibits, are available from [www.sec.gov](http://www.sec.gov). Shareholders may also request a copy of our filings by writing to us at the following address: c/o Global Ship Lease Services Limited, 25 Wilton Road, London SW1V 1LW, United Kingdom or telephoning us at +44 (0) 20 3998 0063.

#### **I. Subsidiaries**

Not applicable.

## **Item 11. Quantitative and Qualitative Disclosures About Market Risk**

### *Interest Rate Risk*

We are exposed to the impact of interest rate changes primarily through our floating-rate borrowings under our credit facilities. Significant increases in interest rates could adversely affect our results of operations and our ability to service our own debt. Details of the expected maturity of our borrowings are presented in “Item 5. Operating and Financial Review and Prospects—F. Contractual Obligations.”

### *Sensitivity Analysis*

Our analysis of the potential effects of variations in market interest rates is based on a sensitivity analysis, which models the effects of potential market interest rate changes on our financial condition and results of operations. The following sensitivity analysis may have limited use as a benchmark and should not be viewed as a forecast as it does not include a variety of other potential factors that could affect our business as a result of changes in interest rates.

Based on the outstanding balance at December 31, 2019 of our floating rate credit facilities of \$511.9 million and ignoring amortization thereon and cash on hand, a hypothetical 1% increase in LIBOR would have the impact of reducing our annual net income, before income taxes, by approximately \$5.1 million.

### *Foreign Currency Exchange Risk*

The shipping industry's functional currency is the U.S. dollar. All of our revenues and the majority of our operating costs are in U.S. dollars. In the future, we do not expect to be exposed to any significant extent to the impact of changes in foreign currency exchange rates. Consequently, we do not presently intend to enter into derivative instruments to hedge the foreign currency translation of assets or liabilities or foreign currency transactions or to use financial instruments for trading or other speculative purposes.

### *Inflation*

With the exception of rising costs associated with the employment of international crews for our vessels and the impact of global oil prices on the cost of lubricating oil, we do not believe that inflation has had, or is likely in the foreseeable future to have, a significant impact on vessel operating expenses, drydocking expenses and general and administrative expenses. For the duration of the global expense agreement, under certain predefined circumstances, we will be able to recover a portion of our vessel operating costs above a pre-determined threshold.

### **Item 12. Description of Securities Other than Equity Securities**

Not applicable.

## **PART II**

### **Item 13. Defaults, Dividend Arrearages and Delinquencies**

None.

### **Item 14. Material Modifications to the Rights of Security Holders and Use of Proceeds**

None.

### **Item 15. Controls and Procedures**

#### **Disclosure Controls and Procedures**

As required by Rules 13a-15 and 15d-15 under the Exchange Act, management has evaluated, with the participation of our Chief Executive Officer and Chief Financial Officer, the effectiveness of our disclosure controls and procedures as of the end of the period covered by this report. Disclosure controls and procedures refer to controls and other procedures designed to ensure that information required to be disclosed in the reports we file or submit under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the rules and forms of the SEC. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by us in our reports that we file or submit under the Exchange Act is accumulated and communicated to management, including our Chief Executive Officer and Chief Financial Officer, as appropriate to allow timely decisions regarding our required disclosure. In designing and evaluating our disclosure controls and procedures, management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives, and management was required to apply its judgment in evaluating and implementing possible controls and procedures.



Based on the foregoing, our Chief Executive Officer and Chief Financial Officer have concluded that, as of December 31, 2019, the end of the period covered by this report, our disclosure controls and procedures were effective at the reasonable assurance level.

### **Management's Annual Report on Internal Control Over Financial Reporting**

Management acknowledges its responsibility for establishing and maintaining adequate internal controls over financial reporting. Internal control over financial reporting refers to a process designed by, or under the supervision of, our Chief Executive Officer and Chief Financial Officer and effected by our board of directors, management and other personnel, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles and includes those policies and procedures that:

- relate to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of our assets;
- provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that our receipts and expenditures are being made only in accordance with authorizations of our management and members of our board of directors; and
- provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of our assets that could have a material effect on our financial statements.

Internal control over financial reporting cannot provide absolute assurance of achieving financial reporting objectives because of its inherent limitations. Internal control over financial reporting is a process that involves human diligence and compliance and is subject to lapses in judgment and breakdowns resulting from human failures. Internal control over financial reporting also can be circumvented by collusion or improper override. Because of such limitations, there is a risk that material misstatements may not be prevented or detected on a timely basis by internal control over financial reporting. However, these inherent limitations are known features of the financial reporting process, and it is possible to design into the process safeguards to reduce, though not eliminate, this risk. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Management evaluated the effectiveness of our internal control over financial reporting as of December 31, 2019 using the framework established in Internal Control—Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission. Based on the foregoing, management has concluded that internal control over financial reporting was effective as of December 31, 2019.

### **Changes in Internal Control over Financial Reporting**

In accordance with Rule 13a-15(d), management has evaluated, with the participation of our Chief Executive Officer and Chief Financial Officer, whether any changes in our internal control over financial reporting that occurred during our last fiscal year have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

During the year ended December 31, 2019, there were no changes with regard to internal control over financial reporting that have materially affected or are reasonably likely to materially affect our internal control over financial reporting.

#### **Attestation Report of the Registered Public Accounting Firm**

Not applicable.

#### **Item 16A. Audit Committee Financial Expert**

The Board has determined that our director and chairman of the audit committee, Mr. van Lacum, qualifies as an audit committee financial expert and is independent under applicable NYSE and SEC standards.

#### **Item 16B. Code of Ethics**

We have adopted a Code of Business Conduct and Ethics that applies to our directors, officers and employees. This document is available in the Corporate Governance section of our website ([www.globalshiplinease.com](http://www.globalshiplinease.com)). The information included on our website is not incorporate herein by reference. We also intend to disclose on our website any waivers to or amendments of our Code of Business Conduct and Ethics for the benefit of our executive officers that we may be required to disclose under applicable rules.

#### **Item 16C. Principal Accountant Fees and Services**

Our principal accountant for 2019 and 2018 was PricewaterhouseCoopers S.A., independent registered public accounting firm.

#### **Fees Incurred by Global Ship Lease for PricewaterhouseCoopers S.A.'s Services**

The fees for services rendered by the auditor in 2019 and 2018 were as follows:

	<b>2019</b>	<b>2018</b>
Audit Fees	\$ 879,905	\$ 661,800
Audit-Related Fees	—	403,300
Tax Fees	55,334	43,800
All Other Fees	—	—
<b>Total</b>	<b><u>\$ 935,239</u></b>	<b><u>\$ 1,108,900</u></b>

#### **Audit Fees**

Audit fees represent professional services rendered for the audit of our consolidated annual financial statements, the quarterly reviews and services provided by our principal accountant in connection with statutory and regulatory filings or engagements.

#### **Audit-Related Fees**

Audit-related fees consist of assurance and related services rendered by the principal accountant related to the performance of the audit or review of our consolidated financial statements or other filings which have not been reported under Audit Fees above.

## **Tax Fees**

Tax fees for 2019 and 2018 are primarily for tax compliance and consultation services.

The audit committee has the authority to pre-approve audit-related and non-audit services not prohibited by law to be performed by our independent auditors and associated fees. Engagements for proposed services either may be separately pre-approved by the audit committee or entered into pursuant to detailed pre-approval policies and procedures established by the audit committee, as long as the audit committee is informed on a timely basis of any engagement entered into on that basis. The audit committee has pre-approved all non-audit services, subject to a detailed pre-approval policy and procedure established by them.

### **Item 16D. Exemptions from the Listing Standards for Audit Committees**

None.

### **Item 16E. Purchases of Equity Securities by the Issuer and Affiliated Purchasers**

None.

### **Item 16F. Change in Registrant's Certifying Accountant**

On November 16, 2018, the Audit Committee of our Board of Directors replaced PricewaterhouseCoopers Audit ("PwC Audit") with PricewaterhouseCoopers S.A. ("PwC S.A.") as our new independent registered public accounting firm.

The information required to be disclosed pursuant to this Item 16F was previously reported on Form 20-F, filed with the SEC on March 29, 2019.

### **Item 16G. Corporate Governance**

As a foreign private issuer, we are exempt from certain corporate governance rules that apply to domestic companies under NYSE listing standards. Even though we are not required to do so, we follow certain corporate governance practices applicable to domestic companies under NYSE listing standards, such as:

- we have a compensation committee that consists of four directors, all of whom satisfy NYSE standards for independence;
- we have a nominating and corporate governance committee that consists of three directors, all of whom satisfy NYSE standards for independence; and
- we hold annual meetings of shareholders under the Business Corporations Act of the Republic of the Marshall Islands, similar to NYSE requirements.

The significant differences between our corporate governance practices and the NYSE standards are set forth below.

#### ***Shareholder Approval of Equity Compensation Plans***

The NYSE requires listed companies to obtain prior shareholder approval to adopt or materially revise any equity compensation plan. As permitted under Marshall Islands law and our amended and restated bylaws, we do not need prior shareholder approval to adopt or revise equity compensation plans, including our equity incentive plan.

## Share Issuances

In lieu of obtaining shareholder approval prior to the issuance of designated securities, we will comply with provisions of the Marshall Islands Business Corporations Act, which allows the Board of Directors to approve share issuances. Additionally, the NYSE restricts the issuance of super voting stock such as our Series C Preferred Shares. However, pursuant to 313.00 of Section 3 of the NYSE Listed Company Manual, the NYSE will accept any action or issuance relating to the voting rights structure of a non-U.S. company that is in compliance with the NYSE's requirements for domestic companies or that is not prohibited by the company's home country law. We are not subject to such restrictions under our home country, Marshall Islands, law.

### Item 16H. Mine Safety Disclosure

Not applicable.

## PART III

### Item 17. Financial Statements

Not applicable.

### Item 18. Financial Statements

The following financial statements, together with the reports of PricewaterhouseCoopers S.A. and PricewaterhouseCoopers Audit thereon, beginning on page F-1, are filed as part of this Annual Report:

	Page
GLOBAL SHIP LEASE, INC.	
Report of Independent Registered Public Accounting Firm – PricewaterhouseCoopers S.A.	F-2
Report of Independent Registered Public Accounting Firm – PricewaterhouseCoopers Audit	F-3
Consolidated Balance Sheets as at December 31, 2019 and 2018	F-4
Consolidated Statements of Operations for the years ended December 31, 2019, 2018 and 2017	F-5
Consolidated Statements of Cash Flows for the years ended December 31, 2019, 2018 and 2017	F-6
Consolidated Statements of Shareholders' Equity for the years ended December 31, 2019, 2018 and 2017	F-7
Notes to the Consolidated Financial Statements	F-8

### Item 19. Exhibits

The agreements and other documents filed as exhibits to this Annual Report are not intended to provide factual information or other disclosure other than with respect to the terms of the agreements or other documents themselves, and you should not rely on them for that purpose. In particular, any representations and warranties made by the registrant in these agreements or other documents were made solely within the specific context of the relevant agreement or document and may not describe the actual state of affairs as of the date they were made or at any other time.

The following exhibits are filed as part of this Annual Report:

<u>Exhibit Number</u>	<u>Description</u>
1.1	<a href="#"><u>Amended and Restated Articles of Incorporation of GSL Holdings, Inc. (incorporated by reference to Exhibit 3.1 to Global Ship Lease, Inc.'s Registration Statement on Form 8-A (File No. 001-34153) filed with the SEC on March 26, 2019).</u></a>
1.2	<a href="#"><u>Articles of Amendment to the Amended and Restated Articles of Incorporation of Global Ship Lease, Inc. (incorporated by reference to Exhibit 3.3 to the Company's Report on Form 6-K, filed with the SEC on March 25, 2019).</u></a>
1.3	<a href="#"><u>Third Amended and Restated Bylaws of Global Ship Lease, Inc. (incorporated by reference to Exhibit 99.1 of the Company's Report on Form 6-K filed on March 23, 2020).</u></a>
1.4	<a href="#"><u>Certificate of Designation of the 8.75% Series B Cumulative Redeemable Perpetual Preferred Shares of Global Ship Lease, Inc., filed with the Registrar or Deputy Registrar of Corporations of the Republic of the Marshall Islands and effective August 19, 2014 (incorporated by reference to Exhibit 3.1 of the Company's Report on Form 6-K filed on August 20, 2014).</u></a>
1.5	<a href="#"><u>Certificate of Amendment to Certificate of Designation of the 8.75% Series B Cumulative Redeemable Perpetual Preferred Shares of Global Ship Lease, Inc., filed with the Registrar or Deputy Registrar of Corporations of the Republic of the Marshall Islands and effective December 9, 2019 (incorporated by reference to Exhibit 3.1 of the Company's Report on Form 6-K filed on December 10, 2019).</u></a>
1.6	<a href="#"><u>Certificate of Designation of the Series C Perpetual Preferred Shares of Global Ship Lease, Inc. filed with the Registrar or Deputy Registrar of Corporations of the Republic of the Marshall Islands and effective November 12, 2018 (incorporated by reference to Exhibit 1.5 of the Company's Annual Report on Form 20-F filed on March 29, 2019).</u></a>
2.1	<a href="#"><u>Form of Common Share Certificate of the Company (incorporated by reference to Exhibit 4.1 of the Company's Form 6-K (File No. 001-34153) filed on March 25, 2019).</u></a>
2.2	<a href="#"><u>Deposit Agreement, dated as of August 20, 2014, by and among Global Ship Lease, Inc., Computershare Inc. and Computershare Trust Company, N.A., as applicable, as depositary, registrar and transfer agent, and the holders from time to time of the depositary receipts described therein (incorporated by reference to Exhibit 4.1 of the Company's Report on Form 6-K filed on August 20, 2014).</u></a>
2.3	<a href="#"><u>Indenture, dated as of November 19, 2019, by and between the Company and Wilmington Savings Fund Society, FSB, as trustee (incorporated by reference to Exhibit 4.1 of the Company's Report on Form 6-K filed on November 19, 2019).</u></a>
2.4	<a href="#"><u>First Supplemental Indenture, dated as of November 19, 2019, by and between the Company and Wilmington Savings Fund Society, FSB, as trustee (incorporated by reference to Exhibit 4.2 to the Company's Report on Form 6-K filed on November 19, 2019).</u></a>
2.5*	<a href="#"><u>Amendment No. 1 to the First Supplemental Indenture, dated as of November 19, 2019, by and between the Company and Wilmington Savings Fund Society, FSB, as trustee, entered into as of April 2, 2020.</u></a>
2.6*	<a href="#"><u>Description of Securities Registered Pursuant to Section 12 of the Securities Exchange Act of 1934</u></a>
4.1	<a href="#"><u>Form of Registration Rights Agreement between GSL Holdings, Inc., Marathon Founders, LLC, Marathon Investors, LLC, the insiders listed on the signature page thereto and CMA CGM S.A. (incorporated by reference to Exhibit A-1 to Exhibit 2.1 of Marathon Acquisition Corp.'s Current Report on Form 8-K (File No. 001-32983) filed on July 24, 2008).</u></a>

- 4.2 [First Amendment to Registration Rights Agreement, dated as of February 11, 2013, among Global Ship Lease, Inc. \(formerly GSL Holdings, Inc.\) and CMA CGM S.A. \(incorporated by reference to Exhibit I of the Company's Report on Form 6-K filed on February 28, 2013\).](#)
- 4.3 [Registration Rights Agreement, dated October 1, 2019, by and among Global Ship Lease, Inc., B. Riley Financial, Inc. and BRC Partners Opportunity Fund, LP \(incorporated by reference to Exhibit 99.4 of the Company's Report on Form 6-K filed on October 3, 2019\).](#)
- 4.4 [Indenture, dated as of October 31, 2017, among Global Ship Lease, Inc., the guarantors party thereto and Citibank, N.A., London Branch, as trustee, security agent, paying agent, registrar and transfer agent \(incorporated by reference to Exhibit 99.1 of the Company's Report on Form 6-K filed on November 3, 2017\).](#)
- 4.5 [First Supplemental Indenture, dated December 20, 2018, by and among Global Ship Lease, Inc., the guarantors party thereto and Citibank, N.A., London Branch \(incorporated by reference to Exhibit 99.1 to the Company's Report on Form 6-K filed on December 20, 2018\).](#)
- 4.6\* [Supplemental Indentures to the Indenture, dated as of October 31, 2017, as amended by the First Supplemental Indenture, dated December 20, 2018, by and among Global Ship Lease, Inc., the guarantors party thereto and Citibank, N.A., London Branch, as trustee, security agent, paying agent, registrar and transfer agent.](#)
- 4.7 [Form of 2022 Notes \(incorporated by reference to Exhibit 99.1 of the Company's Report on Form 6-K filed on November 3, 2017\).](#)
- 4.8 [Facility Agreement, dated October 25, 2017, among Global Ship Lease, Inc., as borrower, the guarantors party thereto, Citibank, N.A., London Branch, as arranger, bookrunner and security agent, and Citibank Europe plc, UK Branch, as facility agent. \(incorporated by reference to Exhibit 99.3 of the Company's Report on Form 6-K filed on November 3, 2017\).](#)
- 4.9 [Intercreditor Agreement, dated as of October 31, 2017, among Global Ship Lease, Inc., the guarantors party thereto, Citibank, N.A., London Branch, as Notes trustee, Citibank Europe plc, UK Branch, as term agent, and the other parties from time to time party thereto \(incorporated by reference to Exhibit 99.4 of the Company's Report on Form 6-K filed on November 3, 2017\).](#)
- 4.10 [Form of Guarantee made by Global Ship Lease, Inc. in favor of the charterer listed on Schedule I thereto \(incorporated by reference to Exhibit 10.10 of the Company's Registration Statement on Form F-1 \(File No. 333-147070\) filed on November 1, 2007\).](#)
- 4.11 [Form of Guarantee made by CMA CGM S.A. for Global Ship Lease, Inc. \(incorporated by reference to Exhibit 10.11 of the Company's Registration Statement on Form F-1 \(File No. 333-147070\) filed on November 1, 2007\).](#)
- 4.12 [Form of Charter Agreement entered into by a subsidiary of Global Ship Lease, Inc. and CMA CGM S.A. or one of its subsidiaries \(incorporated by reference to Exhibit A-3 to Exhibit 2.1 of Marathon Acquisition Corp.'s Current Report on Form 8-K \(File No. 001-32983\) filed on March 25, 2008\).](#)
- 4.13 [Form of Ship Management Agreement entered into by CMA Ships and a Subsidiary of Global Ship Lease, Inc. \(incorporated by reference to Exhibit A-4 to Exhibit 2.1 of Marathon Acquisition Corp.'s Current Report on Form 8-K \(File No. 001-32983\) filed on March 25, 2008\).](#)
- 4.14 [Form of Guarantee made by Global Ship Lease, Inc. for CMA CGM S.A. and CMA Ships \(incorporated by reference to Exhibit 10.14 of the Company's Registration Statement on Form F-1 \(File No. 333-147070\) filed on November 1, 2007\).](#)
- 4.15 [Form of Guarantee made by CMA CGM S.A. in favor of Global Ship Lease, Inc. and its Subsidiaries \(incorporated by reference to Exhibit 10.15 of the Company's Registration Statement on Form F-1 \(File No. 333-147070\) filed on November 1, 2007\).](#)
- 4.16 [Facility Agreement, dated September 19, 2019, by and among the subsidiaries of the Company listed in Part A of Schedule 1 thereto as borrowers, the Company and Poseidon Containers Holdings LLC, Hephaestus Marine LLC, Pericles Marine LLC and Zeus One Marine LLC as guarantors, the banks and financial institutions listed in Part B of Schedule 1 as lenders, Crédit Agricole Corporate and Investment Bank and ABN AMRO Bank N.A. as bookrunners and arrangers, Crédit Agricole Corporate and Investment Bank, ABN AMRO Bank N.A. and CIT Bank, N.A. as mandated lead arrangers and Crédit Agricole Corporate and Investment Bank, as facility agent and security agent \(incorporated by reference to Exhibit 10.36 of the Company's Registration Statement on Form F-1/A \(File No. 333-233198\) filed on September 24, 2019\).](#)

- 4.17 [Junior Facility Agreement, dated September 19, 2019, by and among the companies listed in Part A of Schedule 1 as joint and several borrowers, Poseidon Containers Holdings LLC, Global Ship Lease, Inc., Hephaestus Marine LLC, Pericles Marine LLC and Zeus One Marine LLC as guarantors, the financial institutions listed in Part B of Schedule 1 as lenders, and Wilmington Trust \(London\) Limited as facility agent and security agent \(incorporated by reference to Exhibit 10.37 of the Company's Registration Statement on Form F-1/A \(File No. 333-233198\) filed on September 24, 2019\).](#)
- 4.18 [Term Loan Facility, dated May 23, 2019, by and among Global Ship Lease 30 LLC, Global Ship Lease 31 LLC and Global Ship Lease 32 LLC, as joint and several borrowers, Global Ship Lease, Inc., as parent guarantor, and Hellenic Bank Public Company Limited, as arranger, facility agent and security agent \(incorporated by reference to Exhibit 10.35 of the Company's Registration Statement on Form F-1 \(File No. 333-233198\) filed on August 9, 2019\).](#)
- 4.19\* [Deed of Accession, Amendment and Restatement, dated December 10, 2019, by and among Global Ship Lease 30 LLC, Global Ship Lease 31 LLC and Global Ship Lease 32 LLC, as original borrowers, Global Ship Lease 33 LLC and Global Ship Lease 34 LLC, as additional borrowers, Global Ship Lease, Inc., as parent guarantor, and Hellenic Bank Public Company Limited, as arranger, facility agent and security agent, relating to the facility agreement dated May 23, 2019.](#)
- 4.20\* [Junior Term Loan Facility, dated December 31, 2018, by and among Laertis Marine LLC, Telemachus Marine LLC and Penelope Marine LLC, as joint and several borrowers and hedge guarantors, Poseidon Containers Holdings LLC, Odyssea Containers Holdings LLC and K&T Marine LLC, as guarantors, and Wilmington Trust \(London\) Limited as facility agent and security agent.](#)
- 4.21 [Term Loan Facility, dated November 9, 2018, by and among Laertis Marine LLC, Telemachus Marine LLC and Penelope Marine LLC as joint and several borrowers and hedge guarantors, Poseidon Containers Holdings LLC, Odyssea Containers Holdings LLC and K&T Marine LLC, as guarantors, Deutsche Bank AG, as arranger, Deutsche Bank AG Filiale Deutschlandgesellschaft, as account bank, and Wilmington Trust, National Association, as facility agent and security agent \(incorporated by reference to Exhibit 4.26 of the Company's Form 20-F filed on March 29, 2019\).](#)
- 4.22\* [Facility Agreement, dated September 7, 2018, by and among Global Ship Lease Investments, Inc., as borrower, Global Ship Lease 26 Limited, as original vessel owner, GSL Holdings, Inc., as parent, Global Ship Lease, Inc., as ultimate parent, the financial institutions listed in Schedule 1 Part II, as original lenders, and Hayfin Services LLP as agent and security agent.](#)
- 4.23\* [Term Loan Facility, dated February 26, 2020, by and among Athena Marine LLC, Aphrodite Marine LLC and Aris Marine LLC, as joint and several borrowers, Global Ship Lease, Inc., as parent guarantor and Chailease International Financial Services Pte. Ltd., as lender.](#)
- 4.24 [Form of Global Expense Agreement between CMA Ship Management and Global Ship Lease, Inc. \(incorporated by reference to Exhibit 10.16 of the Company's Registration Statement on Form F-1 \(File No. 333-147070\) filed on November 1, 2007\).](#)
- 4.25 [Form of Indemnification Agreement entered into between Global Ship Lease, Inc. and each of its directors and officers \(incorporated by reference to Exhibit 10.17 of the Company's Registration Statement on Form F-1 \(File No. 333-147070\) filed on November 1, 2007\).](#)
- 4.26 [2019 Omnibus Incentive Plan \(incorporated by reference to Exhibit I of the Company's Report on Form 6-K \(File No. 001-34153\) filed on March 1, 2019\).](#)

- 4.27 [Form of Service Agreement of Ian J. Webber \(incorporated by reference to Exhibit 10.23 of Amendment No. 3 of the Company's Registration Statement on Form F-4 \(File No. 333-150309\) filed on July 3, 2008\).](#)
- 4.28 [Amended and Restated Service Agreement of Ian J. Webber, dated June 1, 2018 \(incorporated by reference to Exhibit 4.34 of the Company's Form 20-F filed on March 29, 2019\).](#)
- 4.29 [Deed of Amendment of Amended and Restated Service Agreement of Ian J. Webber, dated October 16, 2018 \(incorporated by reference to Exhibit 4.35 of the Company's Form 20-F filed on March 29, 2019\).](#)
- 4.30 [Amended and Restated Service Agreement of Thomas A. Lister, dated June 1, 2018 \(incorporated by reference to Exhibit 4.36 of the Company's Form 20-F filed on March 29, 2019\).](#)
- 4.31 [Deed of Amendment of Amended and Restated Service Agreement of Thomas A. Lister, dated October 16, 2018 \(incorporated by reference to Exhibit 4.37 of the Company's Form 20-F filed on March 29, 2019\).](#)
- 4.32 [Non-Compete Agreement, dated as of October 29, 2018, by and among Global Ship Lease, Inc., Georgios Giouroukos and Conchart Commercial, Inc. \(incorporated by reference to Exhibit 10.2 of the Company's Report on Form 6-K filed on October 30, 2018\).](#)
- 4.33 [Deed of Commercial Advisory Services and Exclusive Brokerage Services Agreement, dated as of October 29, 2018, by and among Conchart Commercial Inc., Global Ship Lease Services Limited and Global Ship Lease, Inc. \(incorporated by reference to Exhibit 10.4 of the Company's Report on Form 6-K filed on October 30, 2018\).](#)
- 4.34 [Amended and Restated Registration Rights Agreement, dated as of October 29, 2018, by and among Global Ship Lease, Inc., KEP VI \(Newco Marine\), Ltd., KIA VIII \(Newco Marine\), Ltd., CMA CGM S.A., Management Investor Co., Anmani Consulting Inc., Marathon Founders, LLC, Michael S. Gross and Maas Capital Investments B.V. \(incorporated by reference to Exhibit 10.1 of the Company's Report on Form 6-K filed on October 30, 2018\).](#)
- 4.35 [Letter Agreement, dated as of October 29, 2018, by and among KIA VIII \(Newco Marine\), Ltd., KEP VI \(Newco Marine\), Ltd., Global Ship Lease, Inc., CMA CGM S.A., Marathon Founders, LLC and Michael S. Gross \(incorporated by reference to Exhibit 10.5 of the Company's Report on Form 6-K filed on October 30, 2018\).](#)
- 4.36 [Letter Agreement, dated September 23, 2019, by and among the Global Ship Lease, Inc., KIA VIII \(Newco Marine\) Ltd. and KEP VI \(Newco Marine\) Ltd. \(incorporated by reference to Exhibit 10.38 of the Company's Registration Statement on Form F-1/A \(File No. 333-233198\) filed on September 24, 2019\).](#)
- 4.37 [Agreement and Plan of Merger, dated as of October 29, 2018, by and among Poseidon Containers Holdings LLC, K&T Marine LLC, Global Ship Lease, Inc., GSL Sub One LLC, GSL Sub Two LLC and, solely for purposes of Article III, Article XI and Sections 5.2, 6.2 and 6.9 therein, KEP VI \(Newco Marine\), Ltd., KIA VIII \(Newco Marine\), Ltd., Maas Capital Investments B.V., Management Investor Co. and Anmani Consulting Inc. \(incorporated by reference to Exhibit 2.1 of the Company's Report on Form 6-K filed on October 30, 2018\).](#)
- 4.38 [Form of Technical Management Agreement by and between Technomar Shipping Inc., on the one hand, and vessel-owning subsidiaries of Global Ship Lease, Inc. \(incorporated by reference to Exhibit 10.3 of the Company's Report on Form 6-K filed on October 30, 2018\).](#)
- 4.39 [Form of Commercial Management Agreement by and between Conchart Commercial Inc., and vessel-owning subsidiaries of Global Ship Lease, Inc. \(incorporated by reference to Exhibit 4.44 of the Company's Form 20-F filed on March 29, 2019\).](#)



4.40*	<a href="#">Board Observer Agreement and Amendment to Engagement Letter and Underwriting Agreement, dated November 12, 2019, by and among the Company, B. Riley FBR, Inc. and B. Riley Financial, Inc.</a>
4.41*	<a href="#">Employment Agreement, dated August 1, 2019, by and between GSL Enterprises Ltd. and Georgios Giouroukos</a>
4.42*	<a href="#">Employment Agreement, dated August 1, 2019, by and between GSL Enterprises Ltd. and Anastasios Psaropoulos</a>
8.1*	<a href="#">List of Subsidiaries of Global Ship Lease, Inc.</a>
12.1*	<a href="#">Rule 13a-14(a)/15d-14(a) Certification of Global Ship Lease, Inc.'s Chief Executive Officer.</a>
12.2*	<a href="#">Rule 13a-14(a)/15d-14(a) Certification of Global Ship Lease, Inc.'s Chief Financial Officer.</a>
13.1*	<a href="#">Global Ship Lease, Inc. Certification of the Chief Executive Officer, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</a>
13.2*	<a href="#">Global Ship Lease, Inc. Certification of the Chief Financial Officer, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</a>
15.1*	<a href="#">Consent of PricewaterhouseCoopers Audit</a>
15.2*	<a href="#">Consent of PricewaterhouseCoopers S.A.</a>
15.3*	<a href="#">Consent of Maritime Strategies International Ltd.</a>
101.INS*	XBRL Instance Document
101.SCH*	XBRL Taxonomy Extension Schema
101.CAL*	XBRL Taxonomy Extension Schema Calculation Linkbase
101.DEF*	XBRL Taxonomy Extension Schema Definition Linkbase
101.LAB*	XBRL Taxonomy Extension Schema Label Linkbase
101.PRE*	XBRL Taxonomy Extension Schema Presentation Linkbase

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\* Filed herewith.

**SIGNATURES**

The registrant hereby certifies that it meets all of the requirements for filing on Form 20-F and that it has duly caused and authorized the undersigned to sign this Annual Report on its behalf.

GLOBAL SHIP LEASE, INC.

By: \_\_\_\_\_ /s/ IAN J. WEBBER

**Ian J. Webber**  
**Chief Executive Officer**

Date: April 2, 2020

## GLOSSARY OF SHIPPING TERMS

Unless otherwise stated, references to the following terms have the following meaning as used in this Annual Report:

*Address commission.* A discount provided directly to a charterer based on a fixed percentage of the agreed upon charter rate

*Annual survey.* The inspection of a ship pursuant to international conventions, by a classification society surveyor, on behalf of the flag state, that takes place every year.

*Backhaul.* The weaker leg of a round trip voyage with less volume than the stronger headhaul leg or the return movement of a container—often empty—from a destination of unloading to a point of reloading of cargo.

*Ballast.* Weight in solid or liquid form, such as seawater, taken on a ship to increase draught, to change trim, or to improve stability or a voyage in which a ship is not laden with cargo.

*Bareboat charter.* A charter of a ship under which the ship-owner is usually paid a fixed amount of charterhire for a certain period of time during which the charterer is responsible for all ship operating expenses, including expenses for crewing, lubricating oil, insurance, maintenance and drydockings, and for all voyage expenses such as bunker fuel. A bareboat charter is also known as a “demise charter” or a “time charter by demise.”

*Bunkers.* Heavy fuel and diesel oil used to power a ship’s engines and generators.

*Capacity.* The nominal carrying capacity of the ship, measured in TEU.

*Charter.* The hire of a ship for a specified period of time or a particular voyage to carry a cargo from a loading port to a discharging port.

*Charterer.* The party that hires a ship for a period of time or for a voyage.

*Charterhire.* A sum of money paid to the ship-owner by a charterer for the use of a ship.

*Charter owner.* A company that owns containerships and charters out its ships to container shipping companies rather than operating the ships for liner services; also known as ship-owner or lessor.

*Charter rate.* The rate charged by a Charter owner normally as a daily rate for the use of its containerships by a charterer. Charter rates can be on a time charter or bareboat charter basis.

*Classification society.* An independent organization that certifies that a ship has been built and maintained according to the organization’s rules for that type of ship and complies with the applicable rules and regulations of the country of the ship’s registry and the international conventions of which that country is a member. A ship that receives its certification is referred to as being “in-class.”

*Container shipping company.* A shipping company operating liner services using owned or chartered ships with fixed port of call schedules. Also known as a carrier, liner company or an operator.

*Drydocking.* Placing the ship in a drydock in order to check and repair areas and parts below the water line. During drydockings, which are required to be carried out periodically, certain mandatory classification society inspections are carried out and relevant certifications are issued. Under Classification Society rules, drydockings for containerships are generally required once every three to five years or after an accident resulting in under-water damage.

*Freight rate.* The amount charged by container shipping companies for transporting cargo, normally as a rate per 20-foot or 40-foot container.

*Geared containerhips.* Self-sustained containerhips, which are able to load and discharge containers with their own on-board cranes and derricks.

*Gross tonnage.* A unit of measurement of the entire internal cubic capacity of the ship expressed in tons at 100 cubic feet to the ton.

*Headhaul.* The stronger leg of a round trip voyage with greater volume than the weaker backhaul or the outgoing goods to be delivered from a point of origin.

*Hull.* The main body of the ship without engines, buildings and cranes.

*Liner company or liner.* A container shipping company (also referred to as lines or operators).

*KG.* Kommanditgesellschaft, a closed end fund construct broadly analogous to a limited partnership. It has been employed as an investment vehicle for high net worth individuals (primarily German) in various types of assets, including shipping assets.

*IMO.* International Maritime Organization, a United Nations agency that issues international standards for shipping.

*Intermediate survey.* The inspection of a ship by a classification society surveyor that takes place 24 to 36 months after each special survey.

*Newbuilding.* A ship on order, under construction or just delivered.

*Off-hire.* The period in which a ship is not available for service under a charter and, accordingly, the charterer generally is not required to pay the hire. Off-hire periods can include days spent on repairs, drydocking and surveys, whether or not scheduled.

*Orderbook-to-fleet ratio.* The ratio of the orderbook for new vessels yet to be delivered to the existing on-the-water fleet determined on the basis of TEU capacity and expressed as a percentage.

*Scrapping.* The sale of a ship for conversion into scrap metal.

*Ship management.* The provision of shore-based ship management services related to crewing, technical and safety management and the compliance with all government, flag state, class certification and international rules and regulations.

*Shipper.* Someone who prepares goods for shipment or arranges seaborne transportation; essentially a customer of a container shipping company.

*Sister ships.* Ships of the same class and specification typically built at the same shipyard.

*Special survey.* The inspection of a ship by a classification society surveyor that takes place every five years, as part of the recertification of the ship by a classification society.

*Spot market.* The market for immediate chartering of a ship, usually for single voyages or for short periods of time, up to 12 months.

*TEU.* A 20-foot equivalent unit, the international standard measure for containers and containership capacity.

*Time charter.* A charter under which the ship-owner hires out a ship for a specified period of time. The ship-owner is responsible for providing the crew and paying vessel operating expenses while the charterer is responsible for paying the voyage expenses such as fuel and additional voyage insurance. The ship-owner is paid charterhire, which accrues on a daily basis.

*Time charter and voyage expenses.* Expenses incurred including brokerage commission and those for owner's account attributable to a ship's voyage, such as bunkers costs when the vessel is idle or offhire and expenses incurred due to a ship's voyage from a loading port to a discharging port, such as bunkers costs, port expenses, stevedoring costs, agents' fees, canal dues, extra war risk insurance and commissions

*Vessel operating expenses.* The costs of operating a ship, primarily consisting of crew wages and associated costs, insurance premiums, ship management fees, costs of lubricants and spare parts, and repair and maintenance costs. Vessel operating expenses exclude bunker costs, port expenses, stevedoring costs, agents' fees, canal dues, extra war risk insurance and commissions, which are included in "voyage expenses."

*Voyage expenses.* Expenses incurred due to a ship's voyage from a loading port to a discharging port, such as bunkers costs, port expenses, stevedoring costs, agents' fees, canal dues, extra war risk insurance and commissions.

Global Ship Lease, Inc.

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## Report of Independent Registered Public Accounting Firm

To the Board of Directors and Shareholders of Global Ship Lease, Inc.

### ***Opinion on the Financial Statements***

We have audited the accompanying consolidated balance sheets of Global Ship Lease, Inc. and its subsidiaries (the “Company”) as of December 31, 2019 and 2018 and the related consolidated statements of operations, changes in shareholders’ equity and cash flows for the years then ended, including the related notes (collectively referred to as the “consolidated financial statements”). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2019 and 2018, and the results of its operations and its cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

### ***Basis for Opinion***

These consolidated financial statements are the responsibility of the Company’s management. Our responsibility is to express an opinion on the Company’s consolidated financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits of these consolidated financial statements in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company’s internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. We believe that our audits provide a reasonable basis for our opinion.

### ***Significant Transactions with Related Parties***

As discussed in Note 2(a) to the consolidated financial statements, the Company has significant contracts with CMA CGM, a related party and the main source of the Company’s operating revenue and consequently the Company is highly dependent on the performance by CMA CGM of its obligations under those contracts which will in turn depend partly on CMA CGM’s financial situation.

/s/ PricewaterhouseCoopers S.A.

Athens, Greece  
April 2, 2020

We have served as the Company’s auditor since 2018.

## Report of Independent Registered Public Accounting Firm

To the Board of Directors and Shareholders of Global Ship Lease, Inc.

### ***Opinion on the Financial Statements***

We have audited the accompanying consolidated statement of operations, changes in shareholder's equity and cash flows for the year ended December 31, 2017, including the related notes (collectively referred to as the "consolidated financial statements"). In our opinion, the consolidated financial statements present fairly, in all material respects, the results of its operations and its cash flows for the year ended December 31, 2017 in conformity with accounting principles generally accepted in the United States of America.

### ***Basis for Opinion***

These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's consolidated financial statements based on our audit. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit of these consolidated financial statements in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud.

Our audit included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audit also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. We believe that our audit provides a reasonable basis for our opinion.

### ***Significant Transactions with Related Parties***

As discussed in Note 2 (a) to the consolidated financial statements, the Company has entered into significant contracts with CMA CGM, a related party and the main source of the Company's operating revenue and consequently the Company is highly dependent on the performance by CMA CGM of its obligations under those contracts which will in turn depend partly on CMA CGM's financial situation.

PricewaterhouseCoopers Audit  
/s/ PricewaterhouseCoopers Audit

Marseille, France

March 29, 2018, except for the effects of the stock split discussed in Note 2(a) to the consolidated financial statements, as to which the date is March 29, 2019

We served as the Company's auditor from 2007 to 2018.



Global Ship Lease, Inc.

Consolidated Balance Sheets

(Expressed in thousands of U.S. dollars except share data)

	Note	As of	
		December 31, 2019	December 31, 2018
<b>ASSETS</b>			
<b>CURRENT ASSETS</b>			
Cash and cash equivalents		\$ 138,024	\$ 82,059
Restricted cash	3	3,909	2,186
Accounts receivable, net		2,350	1,927
Inventories	8	5,595	5,769
Prepaid expenses and other current assets	7	8,132	6,214
Due from related parties	13	3,860	817
<b>Total current assets</b>		<b>\$ 161,870</b>	<b>\$ 98,972</b>
<b>NON - CURRENT ASSETS</b>			
Vessels in operation	4	\$ 1,155,586	\$ 1,112,766
Advances for vessels acquisitions and other additions	4	10,791	—
Other fixed assets		—	5
Intangible assets - charter agreements	6	1,467	5,400
Deferred charges, net	5	16,408	9,569
Other non - current assets	11r	—	948
Restricted cash, net of current portion	3	5,703	5,827
<b>Total non - current assets</b>		<b>1,189,955</b>	<b>1,134,515</b>
<b>TOTAL ASSETS</b>		<b>\$ 1,351,825</b>	<b>\$ 1,233,487</b>
<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>			
<b>CURRENT LIABILITIES</b>			
Accounts payable	9	\$ 9,052	\$ 9,586
Accrued liabilities	10	22,916	15,407
Current portion of long - term debt	11	87,532	64,088
Deferred revenue		9,987	3,118
Due to related parties	13	109	3,317
<b>Total current liabilities</b>		<b>129,596</b>	<b>95,516</b>
<b>LONG - TERM LIABILITIES</b>			
Long - term debt, net of current portion and deferred financing costs	11	\$ 809,357	\$ 813,130
Intangible liabilities - charter agreements	6	6,470	8,470
Deferred tax liability		—	9
<b>Total non - current liabilities</b>		<b>815,827</b>	<b>821,609</b>
<b>Total liabilities</b>		<b>\$ 945,423</b>	<b>\$ 917,125</b>
<b>Commitments and Contingencies</b>	14	—	—
<b>SHAREHOLDERS' EQUITY</b>			
Class A common shares - authorized			
214,000,000 shares with a \$0.01 par value			
17,556,738 shares issued and outstanding (2018 – 9,017,205 shares)	15	\$ 175	\$ 90
Class B common shares - authorized			
20,000,000 shares with a \$0.01 par value			
nil shares issued and outstanding (2018 – 925,745 shares)	15	—	9
Series B Preferred Shares - authorized			
44,000 shares with a \$0.01 par value			
14,428 shares issued and outstanding (2018 – 14,000 shares)	15	—	—
Series C Preferred Shares - authorized			
250,000 shares with a \$0.01 par value			
250,000 shares issued and outstanding (2018 - 250,000 shares)	15	3	3
Additional paid in capital		565,586	512,379
Accumulated deficit		(159,362)	(196,119)
<b>Total shareholders' equity</b>		<b>406,402</b>	<b>316,362</b>
<b>TOTAL LIABILITIES AND SHAREHOLDERS' EQUITY</b>		<b>\$ 1,351,825</b>	<b>\$ 1,233,487</b>

See accompanying notes to Consolidated Financial Statements

Global Ship Lease, Inc.

Consolidated Statements of Operations

(Expressed in thousands of U.S. dollars except share data)

	Note	Year ended December 31,		
		2019	2018	2017
<b>OPERATING REVENUES</b>				
Time charter revenue (include related party revenues of \$153,661, \$126,207 and \$123,944 for each of the years ended December 31, 2019, 2018 and 2017, respectively)	12, 13	\$ 261,102	\$ 157,097	\$ 159,278
<b>OPERATING EXPENSES:</b>				
Vessel operating expenses (include related party vessels operating expenses of \$9,880, \$1,689 and \$1,599 for each of the years ended December 31, 2019, 2018 and 2017, respectively)	13	87,786	49,273	42,697
Time charter and voyages expenses - related parties (include related party time charter and voyage expenses of \$1,845, \$222 and \$nil for each of the years ended December 31, 2019, 2018 and 2017, respectively)	13	9,022	1,574	962
Depreciation and amortization	4, 5	43,912	35,455	37,981
Impairment of vessels	4	—	71,834	87,624
General and administrative expenses		8,815	9,221	5,367
<b>Operating Income/ (Loss)</b>		<b>111,567</b>	<b>(10,260)</b>	<b>(15,353)</b>
<b>NON OPERATING INCOME/(EXPENSES)</b>				
Interest income		1,791	1,425	489
Interest and other finance expenses		(74,994)	(48,686)	(59,413)
Other income, net		1,477	212	51
<b>Total non operating expenses</b>		<b>(71,726)</b>	<b>(47,049)</b>	<b>(58,873)</b>
<b>Income/ (Loss) before income taxes</b>		<b>39,841</b>	<b>(57,309)</b>	<b>(74,226)</b>
Income taxes		(3)	(55)	(40)
<b>Net Income/ (Loss)</b>		<b>\$ 39,838</b>	<b>\$ (57,364)</b>	<b>\$ (74,266)</b>
Earnings allocated to Series B Preferred Shares		(3,081)	(3,062)	(3,062)
<b>Net Income/ (Loss) available to Common Shareholders</b>		<b>\$ 36,757</b>	<b>\$ (60,426)</b>	<b>\$ (77,328)</b>
<b>Earnings/ (Loss) per Share</b>				
Weighted average number of Class A common shares outstanding				
Basic	17	11,859,506	6,514,390	5,996,986
Diluted	17	11,906,906	6,514,390	5,996,986
Net Earnings / (Loss) per Class A common share				
Basic	17	1.48	(7.42)	(12.89)
Diluted	17	1.48	(7.42)	(12.89)
Weighted average number of Class B common shares outstanding				
Basic and diluted	17	nil	925,745	925,745
Net Earnings / (Loss) per Class B common share				
Basic and diluted	17	n/a	nil	nil

See accompanying notes to Consolidated Financial Statements

Global Ship Lease, Inc.

Consolidated Statements of Cash Flows

(Expressed in thousands of U.S. dollars)

	Note	Year ended December 31,		
		2019	2018	2017
<b>Cash flows from operating activities:</b>				
Net income / (loss)		\$ 39,838	\$ (57,364)	\$ (74,266)
<b>Adjustments to reconcile net loss to net cash provided by operating activities:</b>				
Depreciation and amortization		43,912	35,455	37,981
Vessels impairment	4	—	71,834	87,624
Amortization of deferred financing costs		3,108	4,629	7,772
Amortization of original issue discount/premium on repurchase of notes		1,140	1,207	11,570
Amortization of intangible assets/liabilities - charter agreements	6	1,933	(1,305)	(1,807)
Share based compensation	16	1,717	50	272
<b>Changes in operating assets and liabilities:</b>				
(Increase)/decrease in accounts receivable and other assets		(1,393)	5,019	(441)
Decrease/(increase) in inventories		174	(2,250)	(188)
Increase/(decrease) in accounts payable and other liabilities		2,284	(9,117)	(3,030)
(Decrease)/increase in related parties' balances, net		(6,251)	(625)	1,138
Increase in deferred revenue		6,869	214	238
Unrealized foreign exchange loss/(gain)		50	(5)	2
<b>Net cash provided by operating activities</b>		<b>93,381</b>	<b>47,742</b>	<b>66,865</b>
<b>Cash flows from investing activities:</b>				
Acquisition of vessels		(72,997)	(11,436)	—
Cash paid for vessel expenditures		(9,528)	(239)	(255)
Net proceeds from sale of vessels		—	14,504	—
Advances for vessel acquisitions and other additions		(9,184)	—	—
Cash paid for other assets		—	—	(8)
Cash paid for drydockings		(7,390)	(2,636)	(4,632)
Cash acquired in Poseidon Transaction, net of capitalized expenses		(826)	24,037	—
<b>Net cash (used in)/ provided by investing activities</b>		<b>(99,925)</b>	<b>24,230</b>	<b>(4,895)</b>
<b>Cash flows from financing activities:</b>				
Proceeds from issuance of 2024 Notes		39,765	—	—
Proceeds from issuance of 2022 Notes		—	—	356,400
Repurchase of 2022 Notes and other senior notes, including premium	11	(17,623)	(20,400)	(374,835)
Proceeds from drawdown of credit facilities	11	327,500	8,125	54,800
Repayment of credit facilities	11	(63,505)	(37,771)	(63,575)
Repayment of refinanced debt		(262,810)	—	—
Deferred financing costs paid		(7,904)	(2,058)	(12,675)
Proceeds from offering of Class A common shares, net of offering costs		50,710	—	—
Proceeds from offering of Series B preferred shares, net of offering costs		1,056	—	—
Series B Preferred Shares - dividends paid	15	(3,081)	(3,062)	(3,062)
<b>Net cash provided by/ (used in) financing activities</b>		<b>\$ 64,108</b>	<b>\$ (55,166)</b>	<b>\$ (42,947)</b>
<b>Net increase in cash and cash equivalents and restricted cash</b>		<b>57,564</b>	<b>16,806</b>	<b>19,023</b>
Cash and cash equivalents and restricted cash at beginning of the year		90,072	73,266	54,243
<b>Cash and cash equivalents and restricted cash at end of the year</b>		<b>\$ 147,636</b>	<b>\$ 90,072</b>	<b>\$ 73,266</b>
<b>Supplementary Cash Flow Information:</b>				
Cash paid for interest		\$ 70,630	\$ 42,390	\$ 43,152
Cash paid for income taxes		—	84	46
<b>Non-cash investing activities:</b>				
Unpaid capitalized expenses		—	(826)	—
Unpaid drydocking expenses		3,676	—	—
Unpaid vessels additions		1,641	—	—
Working capital acquired		—	(11,331)	—
Vessels and other intangibles acquired		—	622,925	—
Debt acquired		—	(509,673)	—
<b>Non-cash financing activities:</b>				
Issuance of Class A common shares		—	(23,564)	—
Issuance of Series C Preferred Shares		—	(101,569)	—
Unpaid offering costs		200	—	—

See accompanying notes to Consolidated Financial Statements

Global Ship Lease, Inc.

Consolidated Statements of Changes in Shareholders' Equity

(Expressed in thousands of U.S. dollars except share data)

	Number of Common Shares at par value \$0.01	Number of Series B Preferred Shares at par value \$0.01	Number of Series C Preferred Shares at par value \$0.01	Common Shares	Series B Preferred Shares	Series C Preferred Shares	Additional paid - in capital	Retained Earnings/ (Accumulated Deficit)	Total Shareholders' Equity
<b>Balance at January 1, 2017</b>	<b>6,872,696</b>	<b>14,000</b>	<b>—</b>	<b>\$ 69</b>	<b>\$ —</b>	<b>\$ —</b>	<b>\$ 387,189</b>	<b>\$ (58,365)</b>	<b>\$ 328,893</b>
Issuance of Restricted Stock Units (Note 16)	—	—	—	—	—	—	40	—	40
Class A common shares issued (Note 15)	4,266	—	—	—	—	—	—	—	—
Net Loss for the year	—	—	—	—	—	—	—	(74,266)	(74,266)
Series B Preferred Shares dividend (Note 15)	—	—	—	—	—	—	—	(3,062)	(3,062)
<b>Balance at December 31, 2017</b>	<b>6,876,962</b>	<b>14,000</b>	<b>—</b>	<b>\$ 69</b>	<b>\$ —</b>	<b>\$ —</b>	<b>\$ 387,229</b>	<b>\$ (135,693)</b>	<b>\$ 251,605</b>
Issuance of Restricted Stock Units (Note 16)	—	—	—	—	—	—	50	—	50
Class A common shares issued (Note 15)	3,065,988	—	—	30	—	—	23,534	—	23,564
Series C Preferred Shares issued (Note 15)	—	—	250,000	—	—	3	101,566	—	101,569
Net Loss for the year	—	—	—	—	—	—	—	(57,364)	(57,364)
Series B Preferred Shares dividend (Note 15)	—	—	—	—	—	—	—	(3,062)	(3,062)
<b>Balance at December 31, 2018</b>	<b>9,942,950</b>	<b>14,000</b>	<b>250,000</b>	<b>\$ 99</b>	<b>\$ —</b>	<b>\$ 3</b>	<b>\$ 512,379</b>	<b>\$ (196,119)</b>	<b>\$ 316,362</b>
Issuance of Restricted Stock Units (Note 16)	—	—	—	—	—	—	1,717	—	1,717
Class A common shares issued, net of offering costs (Note 15)	7,613,788	—	—	76	—	—	50,634	—	50,710
Net Income for the year	—	—	—	—	—	—	—	39,838	39,838
Series B Preferred Shares dividend (Note 15)	—	—	—	—	—	—	—	(3,081)	(3,081)
Issuance of Series B Preferred shares, net of offering costs	—	428	—	—	—	—	856	—	856
<b>Balance at December 31, 2019</b>	<b>17,556,738</b>	<b>14,428</b>	<b>250,000</b>	<b>\$ 175</b>	<b>\$ —</b>	<b>\$ 3</b>	<b>\$ 565,586</b>	<b>\$ (159,362)</b>	<b>\$ 406,402</b>

See accompanying notes to Consolidated Financial Statements

**Global Ship Lease, Inc.**

**Notes to the Consolidated Financial Statements**

(Expressed in thousands of U.S. dollars)

**1. Description of Business**

On August 14, 2008, Global Ship Lease, Inc. (the “Company”) merged indirectly with Marathon Acquisition Corp., a company then listed on The American Stock Exchange, and with the pre-existing Global Ship Lease, Inc. GSL Holdings, Inc. was the surviving entity, changed its name to Global Ship Lease, Inc. and became listed on The New York Stock Exchange (the “NYSE”).

On November 15, 2018, the Company completed a transformative transaction and acquired Poseidon Containers’ 20 containerships, one of which, the Argos, was contracted to be sold, which sale was completed in December 2018, which we refer to herein as the “Poseidon Transaction”. References herein to the “GSL Fleet” are to the 19 vessels that were owned by us prior to the consummation of the Poseidon Transaction, and references to the “Poseidon Fleet” are to the 19 vessels that we acquired as a result of the Poseidon Transaction, excluding the Argos.

The Company’s business is to own and charter out containerships to leading liner companies. As of December 31, 2019, the Company owned 43 vessels with average age weighted by TEU capacity of 12.5 years. It had contracted to purchase two further ships, which were delivered in January and February 2020 (see note 18).

The following table provides information about the 43 vessels owned as at December 31, 2019.

<b>Company Name (1)</b>	<b>Fleet</b>	<b>Country of Incorporation</b>	<b>Vessel Name</b>	<b>Capacity in TEUs (2)</b>	<b>Year Built</b>	<b>Earliest Charter Expiry Date</b>
Global Ship Lease 3 Limited	GSL	Cyprus	GSL Matisse	2,262	1999	—
Global Ship Lease 4 Limited	GSL	Cyprus	Utrillo	2,262	1999	1Q20
Global Ship Lease 5 Limited	GSL	Cyprus	GSL Keta	2,207	2003	1Q20
Global Ship Lease 6 Limited	GSL	Cyprus	GSL Julie	2,207	2002	1Q20
Global Ship Lease 7 Limited	GSL	Cyprus	Kumasi	2,207	2002	4Q20
Global Ship Lease 8 Limited	GSL	Cyprus	Marie Delmas	2,207	2002	4Q20
Global Ship Lease 9 Limited	GSL	Cyprus	GSL La Tour	2,272	2001	4Q20
Global Ship Lease 10 Limited	GSL	Cyprus	Manet	2,272	2001	2Q20
Global Ship Lease 12 Limited	GSL	Cyprus	CMA CGM Château d’If	5,089	2007	4Q20
Global Ship Lease 13 Limited	GSL	Cyprus	CMA CGM Thalassa	11,040	2008	4Q25
Global Ship Lease 14 Limited	GSL	Cyprus	CMA CGM Jamaica	4,298	2006	3Q22
Global Ship Lease 15 Limited	GSL	Cyprus	CMA CGM Sambhar	4,045	2006	3Q22
Global Ship Lease 16 Limited	GSL	Cyprus	CMA CGM America	4,045	2006	3Q22
Global Ship Lease 20 Limited	GSL	Hong Kong	MSC Tianjin	8,603	2005	2Q24(3)
Global Ship Lease 21 Limited	GSL	Hong Kong	MSC Qingdao	8,603	2004	2Q24(3)
Global Ship Lease 22 Limited	GSL	Hong Kong	GSL Ningbo	8,603	2004	3Q20
Global Ship Lease 23 Limited	GSL	Hong Kong	CMA CGM Berlioz	6,621	2001	2Q21
Global Ship Lease 26 Limited	GSL	Hong Kong	GSL Valerie	2,824	2005	2Q20
Global Ship Lease 30 Limited	—	Marshall Islands	GSL Eleni	7,847	2004	3Q24
Global Ship Lease 31 Limited	—	Marshall Islands	GSL Kalliopi	7,847	2004	4Q22(4)
Global Ship Lease 32 Limited	—	Marshall Islands	GSL Grania	7,847	2004	3Q22(4)
Global Ship Lease 33 Limited	—	Liberia	GSL Vinia	6,080	2004	2Q24
Global Ship Lease 34 Limited	—	Liberia	GSL Christel Elisabeth	6,080	2004	2Q24
GSL Alcazar Inc.	GSL	Marshall Islands	CMA CGM Alcazar	5,089	2007	4Q20

Global Ship Lease, Inc.

Notes to the Consolidated Financial Statements (continued)

(Expressed in thousands of U.S. dollars)

1. Description of Business (continued)

Company Name (1)	Fleet	Country of Incorporation	Vessel Name	Capacity in TEUs (2)	Year Built	Earliest Charter Expiry Date
Aris Marine LLC	Poseidon	Marshall Islands	Maira	2,506	2000	1Q20
Aphrodite Marine LLC	Poseidon	Marshall Islands	Nikolas	2,506	2000	1Q20
Athena Marine LLC	Poseidon	Marshall Islands	Newyorker	2,506	2001	1Q20
Hephaestus Marine LLC	Poseidon	Marshall Islands	Dolphin II	5,095	2007	3Q20
Pericles Marine LLC	Poseidon	Marshall Islands	Athena	2,762	2003	1Q20
Zeus One Marine LLC	Poseidon	Marshall Islands	Orca I	5,095	2006	2Q20 <sup>(5)</sup>
Leonidas Marine LLC	Poseidon	Marshall Islands	Agios Dimitrios	6,572	2011	4Q23
Alexander Marine LLC	Poseidon	Marshall Islands	Mary	6,927	2013	3Q23
Hector Marine LLC	Poseidon	Marshall Islands	Kristina	6,927	2013	2Q24
Ikaros Marine LLC	Poseidon	Marshall Islands	Katherine	6,927	2013	1Q24
Tasman Marine LLC	Poseidon	Marshall Islands	Tasman	5,936	2000	2Q22 <sup>(6)</sup>
Hudson Marine LLC	Poseidon	Marshall Islands	Dimitris Y	5,936	2000	2Q21
Drake Marine LLC	Poseidon	Marshall Islands	Ian H	5,936	2000	1Q21
Philippos Marine LLC	Poseidon	Marshall Islands	Alexandra	6,927	2013	1Q24
Aristoteles Marine LLC	Poseidon	Marshall Islands	Alexis	6,882	2015	1Q24
Menelaos Marine LLC	Poseidon	Marshall Islands	Olivia I	6,882	2015	1Q24
Laertis Marine LLC	Poseidon	Marshall Islands	UASC Al Khor	9,115	2015	1Q22
Penelope Marine LLC	Poseidon	Marshall Islands	Maira XL	9,115	2015	2Q20
Telemachus Marine LLC	Poseidon	Marshall Islands	Anthea Y	9,115	2015	2Q20

(1) All subsidiaries are 100% owned, either directly or indirectly;

(2) Twenty - foot Equivalent Units;

(3) Five-year charters which commenced 2Q2019;

(4) Additional 12 - 24 month extension at charterer's option;

(5) Rate increases to \$10,000 per day from June 3, 2020;

(6) Additional 12 - month extension at charterer's option, callable in 2Q2022 at an increased rate of \$20,000 per day.

**Global Ship Lease, Inc.**

**Notes to the Consolidated Financial Statements (continued)**

(Expressed in thousands of U.S. dollars)

**2. Summary of Significant Accounting Policies**

**(a) Basis of Presentation**

The accompanying consolidated financial statements are prepared in accordance with United States Generally Accepted Accounting Principles (“U.S. GAAP”).

On March 25, 2019, the Company’s common shares began trading on a reverse-split-adjusted basis, following approval received from the Company’s shareholders at a Special Meeting held on March 20, 2019 and subsequently approval from the Company’s Board of Directors to reverse split the Company’s common shares at a ratio of one-for-eight. The Class A common shares and Class B common shares per share amounts disclosed in the consolidated financial statements and notes give effect to the reverse stock split retroactively, for all years presented.

**Adoption of new accounting standards**

On January 1, 2019, the Company adopted the requirements of ASU 2016-02 “Leases” (“ASC 842” or “the new lease standard”), applying the alternative transition method, which is consistent with the approach the Company elected under the new revenue standard adopted as of January 1, 2018. The Company has elected to adopt the practical expedient for lessors to combine lease and non-lease components of revenue earned by its vessels under time charter agreements classified as operating leases. A time charter involves placing a vessel at the charterer’s disposal for a period of time during which the charterer uses the vessel, in return for the payment of a specified daily hire rate. Under time charters, operating costs such as for crews, maintenance and insurance are typically paid by the owner of the vessel. The performance obligations in a time charter contract are satisfied over the term of the contract beginning when the vessel is delivered to the charterer until it is redelivered back to the Company. All of the Company’s time charter agreements provide for fixed consideration. The revenue earned under time charter contracts is not negotiated in separate components. The Company assessed that the lease component included in its time charter contracts, if accounted separately, would be classified as an operating lease. In addition, the timing and pattern of transfer of the non-lease component and the associated lease component in a time charter are the same. All of the Company’s revenues for years ended December 31, 2019 and 2018 derive from time charter agreements that are classified as operating leases.

The Company believes that combining the lease and non-lease components provides for more meaningful financial reporting as it is more reflective of the predominant component in the time charter contracts which is the lease component.

As a result of this adoption, there was no cumulative impact to the Company’s retained earnings at January 1, 2019. The comparative information has not been revised and continues to be reported under the accounting standards in effect for those periods (ASC 840), including disclosure requirements.

**Counterparty risk**

A significant portion of the Company’s revenues are derived from charters to CMA CGM. The Company is consequently highly dependent on the performance by CMA CGM of its obligations under these charters, which operate in an industry that is subject to volatility.

If CMA CGM ceases doing business or fails to perform its obligations under the charters, the Company’s business, financial position and results of operations would be materially adversely affected as it is probable that, even if the Company was able to find replacement charters, such replacement charters would be at significantly lower daily rates and shorter durations. If such events occur, these events may give rise to uncertainty about the Company’s ability to continue as a going concern.

These consolidated financial statements have been prepared on a going concern basis, which contemplates the realization of assets and the satisfaction of liabilities in the normal course of business. The consolidated financial statements do not include any adjustments relating to the recoverability and classification of recorded assets, nor to the amounts and classification of liabilities that may be necessary should the Company be unable to continue as a going concern.

**Global Ship Lease, Inc.**

**Notes to the Consolidated Financial Statements (continued)**

(Expressed in thousands of U.S. dollars)

**2. Summary of Significant Accounting Policies (continued)**

**(b) Principles of Consolidation**

The accompanying consolidated financial statements include the financial statements of the Company and its wholly owned subsidiaries; the Company has no other interests. All significant intercompany balances and transactions have been eliminated in the Company's consolidated financial statements.

**(c) Use of Estimates**

The preparation of consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates under different assumptions and/or conditions.

**(d) Cash and cash equivalents**

Cash and cash equivalents include cash in hand, deposits held at call with banks and other short-term highly liquid investments with original maturities of three months or less.

**(e) Restricted cash**

Restricted cash consists of retention accounts which are restricted in use and held in order to service debt and interest payments. In addition, restricted cash consists of pledged cash maintained with lenders and amounts built-up for future drydockings.

**(f) Insurance claims**

Insurance claims consist of claims submitted and/or claims in the process of compilation or submission. They are recorded on an accrual basis and represent the claimable expenses, net of applicable deductibles, incurred through December 31 of each reported period, which are probable to be recovered from insurers. Any outstanding costs to complete the claims are included in accrued liabilities. The classification of insurance claims into current and non-current assets is based on management's expectation as to the collection dates.

**(g) Inventories**

Inventories consist of bunkers, lubricants, stores and provisions. Inventories are stated at the lower of cost or net realizable value as determined using the first-in, first-out method.

**(h) Accounts receivable, net**

The Company carries its accounts receivable at cost less, if appropriate, an allowance for doubtful accounts, based on a periodic review of accounts receivable, taking into account past write-offs, collections and current credit conditions. The Company does not generally charge interest on past-due accounts. Allowances for doubtful accounts amount to \$ nil as of December 31, 2019 (2018: \$ nil).

**(i) Vessels in operation**

Vessels are generally recorded at their historical cost, which consists of the acquisition price and any material expenses incurred upon acquisition. Vessels acquired in a corporate transaction accounted for as an asset acquisition are stated at the acquisition price, which consists of consideration paid, plus transaction costs less any negative goodwill, if applicable. Vessels acquired in a corporate transaction accounted for as a business combination are recorded at fair value. Vessels acquired as part of the Marathon Merger in 2008 were accounted for under ASC 805, which required that the vessels be recorded at fair value, less the negative goodwill arising as a result of the accounting for the merger.



Global Ship Lease, Inc.

Notes to the Consolidated Financial Statements (continued)

(Expressed in thousands of U.S. dollars)

2. Summary of Significant Accounting Policies (continued)

(i) Vessels in operation (continued)

Subsequent expenditures for major improvements and upgrades are capitalized, provided they appreciably extend the life, increase the earnings capacity or improve the efficiency or safety of the vessels.

Borrowing costs incurred during the construction of vessels or as part of the prefinancing of the acquisition of vessels are capitalized. There was no capitalized interest for the years ended December 31, 2019 and 2018.

Vessels are stated less accumulated depreciation and impairment, if applicable. Vessels are depreciated to their estimated residual value using the straight-line method over their estimated useful lives which are reviewed on an ongoing basis to ensure they reflect current technology, service potential and vessel structure. The useful lives are estimated to be 30 years from original delivery by the shipyard.

Management estimates the residual values of the Company's container vessels based on a scrap value cost of steel times the weight of the vessel noted in lightweight tons (LWT). Residual values are periodically reviewed and revised to recognize changes in conditions, new regulations or other reasons. Revision of residual values affect the depreciable amount of the vessels and affects depreciation expense in the period of the revision and future periods. Up to December 31, 2018, management estimated the residual values of its vessels based on scrap rate of \$250 per LWT. Effective January 1, 2019, following management's consideration of current market trends for scrap rates and historical scrap rates of the residual values of the Company's vessels, the estimated scrap value per LWT was increased to \$400. This change in accounting estimates did not materially affect the statements of operations and the earnings/ (losses) per share of the Company for the year ended December 31, 2019.

For any vessel group which is impaired, the impairment charge is recorded against the cost of the vessel and the accumulated depreciation as at the date of impairment is removed from the accounts.

The cost and related accumulated depreciation of assets retired or sold are removed from the accounts at the time of sale or retirement and any gain or loss is included in the Consolidated Statements of Operations.

**Acquisition of the Poseidon Fleet**

The Poseidon Transaction has been accounted for under ASU 2017-01 as an asset acquisition. The vessels acquired on November 15, 2018, described in note 1, were recorded at their fair value, based on valuations obtained from third party independent ship brokers, less negative goodwill arising as a result of the accounting for the overall Poseidon Transaction, allocated pro-rata. The following table summarizes the accounting for the Poseidon Transaction, including the fair value of the stock-based consideration given:

<b>Assets and Liabilities Acquired</b>	<b>Amount</b>
Vessels fair value as of November 15, 2018	\$ 761,248
Negative goodwill allocated pro-rata to the vessels acquired	(143,726)
Vessels fair value recognized as of November 15, 2018 (see note 3)	617,522
Cash and cash equivalents	35,044
Fair value of time charter contracts attached, net of pro-rata allocation of negative goodwill	5,404
Debt assumed	(509,673)
Working capital (excluding cash and cash equivalents)	(11,331)
<b>Total</b>	<b>\$ 136,966</b>
<b>Fair Value of Consideration Given</b>	<b>Amount</b>
Share price as of November 15, 2018 (as adjusted for reverse stock split)	\$ 7.84
Fair value of stock-based consideration	125,133
Capitalized transaction expenses	11,833
<b>Total consideration</b>	<b>\$ 136,966</b>

Notes to the Consolidated Financial Statements (continued)

(Expressed in thousands of U.S. dollars)

**2. Summary of Significant Accounting Policies (continued)**

**(j) Deferred charges, net**

Drydocking costs are reported in the Consolidated Balance Sheets within “Deferred charges, net”, and include planned major maintenance and overhaul activities for ongoing certification. The Company follows the deferral method of accounting for drydocking costs, whereby actual costs incurred are deferred and amortized on a straight-line basis over the period until the next scheduled drydocking, which is generally five years. Any remaining unamortized balance from the previous drydocking is written-off.

The amortization period reflects the estimated useful economic life of the deferred charge, which is the period between each drydocking. Costs incurred during the drydocking relating to routine repairs and maintenance are expensed. The unamortized portion of drydocking costs for vessels sold is included as part of the carrying amount of the vessel in determining the gain or (loss) on sale of the vessel.

**(k) Intangible assets and liabilities – charter agreements**

When intangible assets or liabilities associated with the acquisition of a vessel are identified, they are recorded at fair value. Fair value is determined by reference to market data and the discounted amount of expected future cash flows. Where charter rates are higher than market charter rates, an asset is recorded, being based on the difference between the acquired charter rate and the market charter rate for an equivalent vessel. Where charter rates are less than market charter rates, a liability is recorded, being based on the difference between the acquired charter rate and the market charter rate for an equivalent vessel. The determination of the fair value of acquired assets and assumed liabilities requires the Company to make significant assumptions and estimates of many variables including market charter rates, expected future charter rates, the level of utilization of the Company’s vessels and the Company’s weighted average cost of capital. The use of different assumptions could result in a material change in the fair value of these items, which could have a material impact on the Company’s financial position and results of operations.

**(l) Impairment of Long-lived assets**

Tangible fixed assets, such as vessels, are reviewed individually for impairment when events or changes in circumstances indicate that their carrying amounts may not be recoverable. Undiscounted projected operating cash flows are determined for each vessel group, which comprises of the vessel, the unamortized portion of deferred drydocking related to the vessel and the related carrying value of the intangible asset or liability (if any) with respect to the time charter attached to the vessel at its purchase, if applicable (together the “vessel group”) and compared to the carrying value of the vessel group (step one). Within the shipping industry, vessels can be purchased with a charter attached. The value of the charter may be favorable or unfavorable when comparing the contracted charter rate to then current market rates. An impairment charge is recognized when the sum of the expected undiscounted future cash flows from the vessel group over its estimated remaining useful life is less than its carrying amount (step one) and is recorded equal to the amount by which the vessel group’s carrying amount exceeds its fair value, including any applicable charter. Fair value is determined with the assistance from valuations obtained from third party independent ship brokers (step two).

The assumptions used involve a considerable degree of estimation. Actual conditions may differ significantly from the assumptions and thus actual cash flows may be significantly different to those estimated with a material effect on the recoverability of each vessel’s carrying amount. The most significant assumptions made for the determination of expected cash flows are (i) charter rates on expiry of existing charters, which are based on forecast charter rates, where relevant, in the four years from the date of the impairment test and a reversion to the historical mean for each vessel thereafter (ii) off-hire days, which are based on actual off-hire statistics for the Company’s fleet (iii) operating costs, based on current levels escalated over time based on long term trends (iv) dry docking frequency, duration and cost (v) estimated useful life, which is assessed as a total of 30 years from original delivery by the shipyard and (vi) scrap values.

Whilst charter rates in the spot market and asset values saw overall improvements through 2019, taking into account the seasonal as well as cyclical nature of the container shipping industry, the recovery was not considered to have been sufficiently sustained not to undertake a review for impairment for vessel groups where the carrying value as at December 31, 2019 might not be recoverable.

Notes to the Consolidated Financial Statements (continued)

(Expressed in thousands of U.S. dollars)

**2. Significant Accounting Policies (continued)**

**(l) Impairment of Long-lived assets (continued)**

As a result, step one of the impairment assessment of each of the vessel groups was performed, by comparing the undiscounted projected net operating cash flows for each vessel group to the carrying value of the vessel group. No impairment was identified for the year ended December 31, 2019.

As of December 31, 2018, it was determined that step two of the impairment analysis was required for three vessels groups, as the undiscounted projected net operating cash flows did not exceed the carrying value. As a result, an impairment loss of \$71,834 was recorded for three vessels, shown as "Impairment of vessels" in the Consolidated Statements of Operations, being the aggregate difference between the fair value of the vessel group (which included the charter attached) and the vessel group's carrying value.

No impairment test was performed for the vessels comprising the Poseidon Fleet as at December 31, 2018, as no events or circumstances existed indicating that their carrying value may not be recoverable. The carrying value of the vessels at December 31, 2018 was significantly lower than their fair value, mainly as a result of the allocation of negative goodwill arising from the accounting for the Poseidon Transaction.

The assessment performed for 2017 resulted in impairment charges of \$87,624.

**(m) Deferred financing costs**

Costs incurred in connection with obtaining long-term debt and in obtaining amendments to existing facilities are recorded as deferred financing costs and are amortized to interest expense using the effective interest method over the estimated duration of the related debt. Such costs include fees paid to the lenders or on the lenders' behalf and associated legal and other professional fees. Debt issuance costs, other than any up-front arrangement fee for revolving credit facilities, related to a recognized debt liability are presented as a direct deduction from the carrying amount of that debt. Arrangement fees for revolving credit facilities are shown within "Other non-current assets".

**(n) Preferred shares**

The Series B Preferred Shares have been included within Equity in the Consolidated Balance Sheets since their initial issue in August 2014, and the dividends are presented as a reduction of Retained Earnings or addition to Accumulated Deficit in the Consolidated Statements of Shareholders' Equity as their nature is similar to that of an equity instrument rather than a liability. Holders of these redeemable perpetual preferred shares, which may only be redeemed at the discretion of the Company, are entitled to receive a dividend equal to 8.75% on the original issue price, should such dividend be declared, and rank senior to the common shares with respect to dividend rights and rights upon liquidation, dissolution or winding up of the Company.

The Series C Preferred Shares have been included within Equity in the Consolidated Balance Sheets, from their issue on November 15, 2018. The Class C Preferred Shares are convertible in certain circumstances to Class A common shares and they are entitled to a dividend only should such a dividend be declared on the Class A common shares.

**Global Ship Lease, Inc.**

**Notes to the Consolidated Financial Statements (continued)**

(Expressed in thousands of U.S. dollars)

**2. Significant Accounting Policies (continued)**

**(o) Other comprehensive income/ (loss)**

Other comprehensive income/ (loss), which is reported in the Consolidated Statements of Shareholders' Equity, consists of net income (loss) and other gains and losses affecting equity that, under U.S. GAAP, are excluded from net income (loss). Under ASU 2011-05, an entity reporting comprehensive income in a single continuous financial statement shall present its components in two sections, net income and other comprehensive income. As the Company does not, to date, have other comprehensive income, the accompanying Consolidated Financial Statements only include Consolidated Statements of Operations.

**(p) Revenue recognition and related expense**

The Company charters out its vessels on time charters which involves placing a vessel at a charterer's disposal for a specified period of time during which the charterer uses the vessel in return for the payment of a specified daily hire rate. Such charters are accounted for as operating leases and therefore revenue is recognized on a straight-line basis as the average revenues over the rental periods of such charter agreements, as service is performed. Cash received in excess of earned revenue is recorded as deferred revenue. If a time charter contains one or more consecutive option periods, then subject to the options being exercisable solely by the Company, the time charter revenue will be recognized on a straight-line basis over the total remaining life of the time charter, including any options which are more likely than not to be exercised. Any difference between the charter rate invoiced and the time charter revenue recognized is classified as, or released from, deferred revenue within the Consolidated Balance Sheets.

Revenues are recorded net of address commissions, which represent a discount provided directly to the charterer based on a fixed percentage of the agreed upon charter rate.

Charter revenue received in advance which relates to the period after a balance sheet date is recorded as deferred revenue within current liabilities until the respective charter services are rendered.

Under time charter arrangements the Company, as owner, is responsible for all the operating expenses of the vessels, such as crew costs, insurance, repairs and maintenance, and such costs are expensed as incurred and are included in vessel operating expenses.

Commission paid to brokers to facilitate the agreement of a new charter are included in time charter and voyage expenses as are certain expenses related to a voyage, such as the costs of bunker fuel consumed when a vessel is off-hire or idle.

**(q) Foreign currency transactions**

The Company's functional currency is the U.S. dollar as substantially all revenues and a majority of expenditures are denominated in U.S. dollars. Monetary assets and liabilities denominated in foreign currencies are translated at the rate of exchange at the balance sheet dates. Expenses paid in foreign currencies are recorded at the rate of exchange at the transaction date. Exchange gains and losses are included in the determination of net income (loss).

**(r) Share based compensation**

The Company has awarded incentive stock units to its management and Directors as part of their compensation.

Using the graded vesting method of expensing the incentive stock unit grants, the weighted average fair value of the stock units is recognized as compensation costs in the Consolidated Statements of Operations over the vesting period. The fair value of the incentive stock units for this purpose is calculated by multiplying the number of stock units by the fair value of the shares at the grant date. The Company has not factored any anticipated forfeiture into these calculations based on the limited number of participants.

**Global Ship Lease, Inc.**

**Notes to the Consolidated Financial Statements (continued)**

(Expressed in thousands of U.S. dollars)

**2. Significant Accounting Policies (continued)**

**(s) Income taxes**

The Company and its Marshall Island subsidiaries are exempt from taxation in the Marshall Islands. The Company's vessels are liable for tax based on the tonnage of the vessel, under the regulations applicable to the country of incorporation of the vessel owning company, which is included within vessels' operating expenses.

The Cyprus and Hong Kong subsidiaries are also liable for income tax on any interest income earned from non-shipping activity.

The Company has one subsidiary in the United Kingdom, where the principal rate of corporate income tax is 19% (2018: 19%, 2017: 19%).

The Company recognizes uncertain tax positions only if it is more likely than not that the tax position will be sustained on examination by the taxing authorities, based solely on the technical merits of the position.

**(t) Dividends**

Dividends are recorded in the period in which they are declared by the Company's Board of Directors. Dividends to be paid are presented in the Consolidated Balance Sheets in the line item "Dividends payable".

**(u) Earnings/ (Loss) per share**

Basic earnings/ (loss) per common share are based on income/ (loss) available to common shareholders divided by the weighted average number of common shares outstanding during the period, excluding unvested restricted stock units. Diluted income/ (loss) per common share are calculated by applying the treasury stock method. All unvested restricted stock units that have a dilutive effect are included in the calculation. The basic and diluted earnings per share for the period are presented for each category of participating common shares under the two-class method.

**(v) Risks Associated with Concentration**

The Company is exposed to certain concentration risks that may adversely affect the Company's financial position in the near term:

- (i) The Company derives its revenue from CMA CGM and other liner companies which are exposed to the cyclicity of the container shipping industry.
- (ii) There is a concentration of credit risk with respect to cash and cash equivalents at December 31, 2019, to the extent that substantially all of the amounts are deposited with five banks (2018; eight banks). However, the Company believes this risk is remote as the banks are high credit quality financial institutions.

Notes to the Consolidated Financial Statements (continued)

(Expressed in thousands of U.S. dollars)

2. Significant Accounting Policies (continued)

(w) Segment Reporting

The Company reports financial information and evaluates its operations by charter revenues and not by the length of ship employment for its customers. The Company does not use discrete financial information to evaluate operating results for each type of charter. Management does not identify expenses, profitability or other financial information by charter type. As a result, management reviews operating results solely by revenue per day and operating results of the fleet and thus the Company has determined that it operates under one reportable segment.

(x) Fair Value Measurement and Financial Instruments

Financial instruments carried on the balance sheet include cash and cash equivalents, restricted cash, trade receivables and payables, other receivables and other liabilities and long-term debt. The particular recognition methods applicable to each class of financial instrument are disclosed in the applicable significant policy description of each item or included below as applicable.

**Fair value measurement:** Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability (i.e. the “exit price”) in an orderly transaction between market participants at the measurement date. The hierarchy is broken down into three levels based on the observability of inputs as follows:

**Level 1** — Valuations based on quoted prices in active markets for identical assets or liabilities that the Company has the ability to access. Valuation adjustments and block discounts are not applied to Level 1 instruments. Since valuations are based on quoted prices that are readily and regularly available in an active market, valuation of these products does not entail a significant degree of judgment.

**Level 2** — Valuations based on one or more quoted prices in markets that are not active or for which all significant inputs are observable, either directly or indirectly.

**Level 3** — Valuations based on inputs that are unobservable and significant to the overall fair value measurement.

As at December 31, 2018, the Company’s three vessel groups that were held and used with a total aggregate carrying amount of \$165,334 were written down to their fair value of \$93,500 resulting in a non-cash impairment charge of \$71,834 which was allocated to the respective vessels’ carrying values (see note 4) and was included in Consolidated Statements of Operations for the year ended December 31, 2018. The estimated fair value, measured on a non-recurring basis, of the Company’s relevant three vessel groups that are held and used is calculated with the assistance of valuation obtained by third party independent ship brokers. Therefore, the Company has categorized the fair value of these vessels as Level II in the fair value hierarchy.

**Financial Risk Management:** The Company activities expose it to a variety of financial risks including fluctuations in, time charter rates, credit and interest rates risk. Risk management is carried out under policies approved by executive management. Guidelines are established for overall risk management, as well as specific areas of operations.

**Credit risk:** The Company closely monitors its credit exposure to customers and counter-parties for credit risk. The Company has entered into commercial management agreement with Conchart Commercial Inc. (“Conchart”), pursuant to which Conchart has agreed to provide commercial management services to the Company, including the negotiation, on behalf of the Company, vessel employment contracts (see note 13). Conchart has policies in place to ensure that it trades with customers and counterparties with an appropriate credit history.

Financial instruments that potentially subject the Company to concentrations of credit risk are accounts receivable and cash and cash equivalents. The Company does not believe its exposure to credit risk is likely to have a material adverse effect on its financial position, results of operations or cash flows.

Notes to the Consolidated Financial Statements (continued)

(Expressed in thousands of U.S. dollars)

2. Significant Accounting Policies (continued)

(x) Fair Value Measurement and Financial Instruments (continued)

**Liquidity Risk:** Prudent liquidity risk management implies maintaining sufficient cash and marketable securities, the availability of funding through an adequate amount of committed credit facilities and the ability to close out market positions. The Company monitors cash balances appropriately to meet working capital needs.

**Foreign Exchange Risk:** Foreign currency transactions are translated into the measurement currency rates prevailing at the dates of transactions. Foreign exchange gains and losses resulting from the settlement of such transactions and from the translation of monetary assets and liabilities denominated in foreign currencies are recognized in the Consolidated Statements of Operations.

(y) Recently issued accounting standards

In June 2016, the FASB issued ASU 2016-13, "Financial Instruments-Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments" ("ASU 2016-13"), which amends the impairment model by requiring entities to use a forward-looking approach based on expected losses to estimate credit losses on certain types of financial instruments, including trade receivables. In December 2018, the FASB issued Accounting Standards Update No. 2018-19 "Codification improvements to Topic 326", which clarifies that impairment of receivables arising from operating leases should be accounted for in accordance with Topic 842, Leases. The ASU 2016-13 is effective for public entities for fiscal years beginning after December 15, 2019, with early adoption permitted. The Company is currently evaluating the impact of the new standard on the Company's consolidated financial statements.

The Company does not believe that any other recently issued, but not yet effective, accounting pronouncements would have a material impact on its consolidated financial statements.

Global Ship Lease, Inc.

Notes to the Consolidated Financial Statements (continued)

(Expressed in thousands of U.S. dollars)

3. Restricted Cash

Restricted cash as of December 31, 2019 and 2018 consisted of the following:

	December 31, 2019	December 31, 2018
Retention accounts	\$ 3,024	\$ 2,186
Restricted bank deposits	885	—
<b>Total Current Restricted Cash</b>	<b>\$ 3,909</b>	<b>\$ 2,186</b>
Cash Collateral	\$ 5,190	\$ 5,190
Guarantee deposits	10	—
Restricted bank deposits	503	637
<b>Total Non - Current Restricted Cash</b>	<b>5,703</b>	<b>5,827</b>
<b>Total Current and Non - Current Restricted Cash</b>	<b>\$ 9,612</b>	<b>\$ 8,013</b>

4. Vessels in Operation

Vessels in Operation as of December 31, 2019 and 2018 consisted of the following:

	Vessel Gross Cost, as adjusted for impairment charges	Accumulated Depreciation	Net Book Value
<b>As of January 1, 2018</b>	<b>\$ 734,534</b>	<b>\$ (148,014)</b>	<b>\$ 586,520</b>
Additions	11,675	—	11,675
Acquisitions through the Poseidon Transaction	617,522	—	617,522
Depreciation	—	(31,117)	(31,117)
Impairment loss	(139,354)	67,520	(71,834)
<b>As of December 31, 2018</b>	<b>\$ 1,224,377</b>	<b>\$ (111,611)</b>	<b>\$ 1,112,766</b>
Additions	82,559	—	82,559
Depreciation	—	(39,739)	(39,739)
<b>As of December 31, 2019</b>	<b>\$ 1,306,936</b>	<b>\$ (151,350)</b>	<b>\$ 1,155,586</b>

On December 12, 2019, the Company took delivery of two 2004-built, 6,080 TEU containerships, GSL Vinia and GSL Christel Elisabeth, for a contract price of \$12,250 each.

On October 9, 2019, the Company took delivery of a 2004-built, 7,847 TEU containership, GSL Kalliopi, for a contract price of \$15,000.

On September 9, 2019, the Company took delivery of a 2004-built, 7,847 TEU containership, GSL Grania, for a contract price of \$15,000.

On May 28, 2019, the Company took delivery of a 2004-built, 7,847 TEU containership, GSL Eleni, for a contract price of \$18,500.

On November 15, 2018, the Company completed a transformative transaction and acquired Poseidon Containers' 20 containerships, one of which, the Argos, was contracted to be sold, which sale was completed in December 2018, which we refer to herein as the "Poseidon Transaction". References herein to the "GSL Fleet" are to the 19 vessels that were owned by us prior to the consummation of the Poseidon Transaction, and references to the "Poseidon Fleet" are to the 19 vessels that we acquired as a result of the Poseidon Transaction, excluding the Argos.



**Global Ship Lease, Inc.**

**Notes to the Consolidated Financial Statements (continued)**

(Expressed in thousands of U.S. dollars)

**4. Vessels in Operation (continued)**

On June 18, 2018, the Company took delivery of a 2005-built, 2,824 TEU containership, now named GSL Valerie, for a contract price of \$11,275.

**Impairment**

Whilst charter rates in the spot market and asset values saw overall improvements through 2019, taking into account the seasonal as well as cyclical nature of the container shipping industry, the recovery was not considered to have been sufficiently sustained not to undertake a review for impairment for vessel groups where the carrying value as at December 31, 2019 might not be recoverable. Consequently, the Company performed an impairment analysis (step one) to estimate the future undiscounted cash flows for each of their vessel groups. The assessment concluded that no impairment of vessels existed as of December 31, 2019, as the undiscounted projected net operating cash flows exceeded the carrying values. Step two of the impairment analysis was not required.

As of December 31, 2018, an impairment test was performed for the 19 vessels in the GSL Fleet, which resulted in an impairment charge on three vessels, totaling to \$71,834, being recognized during the year ended December 31, 2018.

**Collateral**

As of December 31, 2019, 18 vessels of the GSL Fleet were pledged as collateral under the 2022 Notes and the Citi Super Senior Term Loan (“Citi Credit Facility”), one vessel of the GSL Fleet was pledged as collateral under the Hayfin Credit Facility and the vessels acquired during 2019 were pledged under the Hellenic Bank Credit Facility (see note 11). Additionally, the loan facilities of Poseidon Fleet are collateralized by preferred mortgages over 16 of the Poseidon vessels. Three vessels were unencumbered.

**Advances for vessel acquisitions and other additions**

On November 5, 2019, the Company via its subsidiaries, Global Ship Lease 35 and 36 agreed to purchase two 2002-built, 6,422 TEU containerships for a contract price of \$13,000 each. In connection with these acquisitions, the Company paid advances of \$1,300 each. Both vessels were delivered subsequent to the year end (see note 18).

The Company has made advances for the installation of scrubbers and ballast water treatments totaling \$8,191 and \$nil as of December 31, 2019 and 2018, respectively. It is expected that the installations will be completed during 2020.

**5. Deferred charges, net**

Deferred charges, net as of December 31, 2019 and 2018 consisted of the following:

	<b>Dry - docking Costs</b>
<b>As of January 1, 2018</b>	<b>\$ 11,259</b>
Additions	2,635
Amortization	(4,200)
Write - off	(125)
<b>As of December 31, 2018</b>	<b>\$ 9,569</b>
Additions	11,066
Amortization	(4,169)
Write - off	(58)
<b>As of December 31, 2019</b>	<b>\$ 16,408</b>

The Company follows the deferral method of accounting for dry-docking costs in accordance with accounting for planned major maintenance activities, whereby actual costs incurred are deferred and amortized on a straight-line basis over the period until the next scheduled dry-docking, which is generally five years. Any remaining unamortized balance from the previous dry-docking are written-off.

Global Ship Lease, Inc.

Notes to the Consolidated Financial Statements (continued)

(Expressed in thousands of U.S. dollars)

6. Intangible Assets/Liabilities – Charter Agreements

Intangible Liabilities – Charter Agreements as of December 31, 2019 and 2018 consisted of the following:

	December 31, 2019	December 31, 2018
Opening balance	\$ 8,470	\$ 10,482
Amortization in period	(2,000)	(2,012)
<b>Closing balance</b>	<b>\$ 6,470</b>	<b>\$ 8,470</b>

Intangible liabilities relate to management's estimate of the fair value of below-market charters on August 14, 2008, the date of the Marathon Merger (see note 1). These intangible liabilities, which are related to five vessels as at December 31, 2019, are being amortized over the remaining term of the relevant charter, giving rise to an increase in time charter revenue.

Intangible Assets – Charter Agreements as of December 31, 2019 and 2018 consisted of the following:

	December 31, 2019	December 31, 2018
Opening balance	\$ 5,400	\$ 700
Additions through the Poseidon Transaction	—	5,404
Amortization in the year	(3,933)	(704)
<b>Closing balance</b>	<b>\$ 1,467</b>	<b>\$ 5,400</b>

Intangible assets relate to management's estimate of the fair value of two above-market charters on August 14, 2008, the date of the Marathon Merger (see note 1). These intangible assets are amortized over the remaining term of the relevant charters, giving rise to a reduction in time charter revenue.

In addition, following the completion of the Poseidon Transaction (see note 1) on November 15, 2018, intangible assets were recognized. These assets were derived from the management's estimate of the fair value of above-market charters. These intangible assets, which are related to two vessels, are being amortized over the remaining term of the relevant charter, giving rise to a reduction in time charter revenue. The unamortized balance of the intangible assets recognized following the Poseidon Transaction as of December 31, 2019, are expected to be fully amortized during the second quarter of 2020.

Global Ship Lease, Inc.

Notes to the Consolidated Financial Statements (continued)

(Expressed in thousands of U.S. dollars)

7. Prepaid Expenses and Other Current Assets

Prepaid Expenses and Other Current Assets as of December 31, 2019 and December 31, 2018 consisted of the following:

	December 31, 2019	December 31, 2018
Insurance and other claims	\$ 1,709	\$ 1,761
Advances to suppliers and other assets	4,964	2,128
Prepaid vessel expenditure	—	840
Prepaid insurances	998	787
Other	461	698
<b>Total</b>	<b>\$ 8,132</b>	<b>\$ 6,214</b>

8. Inventories

Inventories as of December 31, 2019 and December 31, 2018 consisted of the following:

	December 31, 2019	December 31, 2018
Bunkers	\$ 251	\$ 443
Lubricants	4,331	4,958
Stores	777	192
Victualling	236	176
<b>Total</b>	<b>\$ 5,595</b>	<b>\$ 5,769</b>

9. Accounts Payable

Accounts payable as of December 31, 2019 and 2018 consisted of the following:

	December 31, 2019	December 31, 2018
Suppliers, repairers	\$ 7,327	\$ 8,561
Insurers, agents and brokers	163	358
Payables to charterers	762	368
Other creditors	800	299
<b>Total</b>	<b>\$ 9,052</b>	<b>\$ 9,586</b>

10. Accrued Liabilities

Accrued liabilities as of December 31, 2019 and 2018 consisted of the following:

	December 31, 2019	December 31, 2018
Accrued expenses	\$ 16,047	\$ 7,154
Accrued interest	6,869	8,253
<b>Total</b>	<b>\$ 22,916</b>	<b>\$ 15,407</b>

Global Ship Lease, Inc.

Notes to the Consolidated Financial Statements (continued)

(Expressed in thousands of U.S. dollars)

11. Long-Term Debt

Long-term debt as of December 31, 2019 and 2018 consisted of the following:

Facilities	December 31, 2019	December 31, 2018
2022 Notes	\$ 340,000	\$ 360,000
Less repurchases	(17,277)	(20,000)
<b>2022 Notes (a)</b>	<b>\$ 322,723</b>	<b>\$ 340,000</b>
2024 Notes (b)	39,765	—
DVB Credit Facility (c)	45,445	51,063
Syndicated Senior Secured Credit Facility (d)	224,800	—
Blue Ocean Junior Credit Facility (e, k)	38,500	38,500
Credit Agricole Credit Facility (f)	—	53,069
Blue Ocean Credit Facility (g)	—	23,830
ABN-AMRO Credit Facility (h)	—	62,189
ATB Credit Facility (i)	—	17,100
Credit Agricole Credit Facility (j)	—	80,000
Deutsche, CIT, HCOB, Entrust, Blue Ocean Credit Facility (l)	164,710	180,500
Citi Credit Facility (m)	12,077	34,800
Hayfin Credit Facility (n)	7,129	8,125
Hellenic Bank Credit Facility (o)	57,700	—
<b>Total</b>	<b>\$ 912,849</b>	<b>\$ 889,176</b>
Less: Current portion of 2022 Notes (a)	(27,923)	(20,000)
Less: Current portion of long-term debt	(59,609)	(44,088)
Less: Original issue discount of 2022 Notes (a)	(1,859)	(2,659)
Less: Original issue discount of 2024 Notes (b)	(6)	—
Less: Deferred financing costs (s)	(14,095)	(9,299)
<b>Non-current portion of Long-Term Debt</b>	<b>\$ 809,357</b>	<b>\$ 813,130</b>

**Global Ship Lease, Inc.**

**Notes to the Consolidated Financial Statements (continued)**

(Expressed in thousands of U.S. dollars)

**11. Long-Term Debt (continued)**

**a) 9.875% First Priority Secured Notes due 2022**

On October 31, 2017, the Company completed the sale of \$360,000 in aggregate principal amount of its 9.875% First Priority Secured Notes (the “2022 Notes”) which mature on November 15, 2022. Proceeds after the deduction of the original issue discount, but before expenses, amounted to \$356,400.

Interest on the 2022 Notes is payable semi-annually on May 15 and November 15 of each year, commencing on May 15, 2018. As at September 30, 2019 and December 31, 2018 the 2022 Notes were secured by first priority vessel mortgages on the 18 vessels in the GSL Fleet and by assignments of earnings and insurances, pledges over certain bank accounts, as well as share pledges over each subsidiary owning a Mortgaged Vessel. In addition, the 2022 Notes are fully and unconditionally guaranteed, jointly and severally, by the Company’s 18 vessel owning subsidiaries and Global Ship Lease Services Limited.

The Company is required to have a minimum cash balance of \$20,000 on each test date, being March 31, June 30, September 30 and December 31 in each year. The original issue discount is being amortized on an effective interest rate basis over the life of the 2022 Notes.

The Company is required to repay \$40,000 each year for the first three years and \$35,000 thereafter, across both the 2022 Notes and the new Citi Credit Facility - see note 11(m) below. The Citi Credit Facility has minimum fixed amortization whereas as long as amounts are outstanding under that Facility amortization of the 2022 Notes is at the option of the noteholders, who can accept or reject an annual tender offer the Company is obliged to make. In December 2018, the tender offer was accepted in full and the Company repurchased \$20,000 of the 2022 Notes at a purchase price of 102%. In December 2019, the tender offer of \$20,000 was partially accepted by the noteholders and the Company repurchased \$17,277 principal amount of the 2022 Notes at a purchase price of 102%. The balance of the offer of \$2,723 was applied to repay the Citi Credit Facility at par - see note 11(m) below. Around the third anniversary of the issue of the 2022 Notes, the Company will mandatorily redeem \$40,000 of the 2022 Notes at a purchase price of 102%, reduced by the amount of the Citi Credit Facility repaid during 2020. Around the fourth anniversary of the issue of the 2022 Notes, the Company will mandatorily redeem \$35,000 of the 2022 Notes at a purchase price of 102%.

On December 20, 2018, the Company entered into a first supplemental indenture for the 2022 Notes according to which the date beginning on which the Company is permitted to pay dividends to common shareholders in an aggregate amount per year equal to 50% of the consolidated net profit after taxes of the Company for the preceding financial year, was brought forward from January 1, 2021 to January 1, 2020. Also, certain restrictions were agreed in the increase in the permitted transfer basket and the immediate increase in dividend capacity as a result of completing the Poseidon Transaction, and certain other provisions of the Indenture, among other things, the restricted payment covenant, the arm’s length transaction covenant and the reporting covenant were amended.

As of December 31, 2019, the outstanding balance was \$320,864, net of the outstanding balance of the original issue discount.

**b) 8.00% Senior Unsecured Notes due 2024**

On November 19, 2019, the Company completed the sale of \$27,500 aggregate principal amount of its 8.00% Senior Unsecured Notes (the “2024 Notes”) which mature on December 31, 2024. On November 27, 2019, the Company sold an additional \$4,125 of 2024 Notes, pursuant the underwriter’s option to purchase such additional 2024 notes. Interest on the 2024 Notes is payable on the last day of February, May, August and November of each year commencing on February 29, 2020.

The Company has the option to redeem the 2024 Notes for cash, in whole or in part, at any time (i) on or after December 31, 2021 and prior to December 31, 2022, at a price equal to 102%, (ii) on or after December 31, 2022 and prior to December 31, 2023, at a price equal to 101% and (iii) on or after December 31, 2023 and prior to maturity, at a price equal to 100%.

On November 27, 2019, the Company entered into an “At Market Issuance Sales Agreement” with B. Riley FBR, Inc. (the “Agent”) under which and in accordance with the Company’s instructions, the Agent may offer and sell from time to time newly issued 2024 Notes.

As of December 31, 2019, the outstanding aggregate principal amount of the 2024 notes was \$39,765 including an amount of \$8,140 that comprise of newly issued 2024 notes under the At Market Issuance Sales Agreement. The outstanding balance, net of the outstanding balance of the original issue discount, was \$39,759.

**Global Ship Lease, Inc.**

**Notes to the Consolidated Financial Statements (continued)**

(Expressed in thousands of U.S. dollars)

**11. Long-Term Debt (continued)**

**c) \$52.6 Million DVB Credit Facility**

In connection with the Poseidon Transaction, the Company assumed debt from the four vessel owning companies of Maira, Nikolas, Newyorker and Mary, on the date of completion of the transaction of \$51,063 with DVB Bank SE ("DVB"). The agreement is dated July 18, 2017, with initial drawdown amount of \$52,625 and final maturity of December 31, 2020.

The facility has a repayment schedule along with a cash sweep clause, whereby the excess cash flows will be used against the outstanding balance of the facility and will be specifically applied to the prepayment of the balloon instalment up to a specific amount. Tranches A and B each amounting to \$5,500 are scheduled to be repaid in four consecutive quarterly instalments of \$267 starting from March 31, 2020 and a balloon payment of \$4,429 payable in December 31, 2020.

Tranche C amounting to \$5,800 is scheduled to be repaid in four consecutive quarterly instalments of \$267 starting from March 31, 2020 and a balloon payment of \$4,734 payable in December 31, 2020. Tranche D of the remaining \$35,800 is scheduled to be repaid in four consecutive quarterly instalments of \$1,083 starting from March 31, 2020 and a balloon payment of \$31,500 payable also in December 31, 2020. In addition to the repayment schedule of all tranches and the cash sweep mechanism, certain financial covenants will apply starting from January 1, 2020.

The facility bears interest at LIBOR plus a margin of 2.85% per annum.

As of December 31, 2019, the outstanding balance on this facility was \$45,446.

**d) \$268.0 Million Syndicated Senior Secured Credit Facility**

On September 19, 2019, the Company entered into a Syndicated Senior Secured Credit Facility in order to refinance existing credit facilities that had a maturity date in December 2020, of an amount \$224,310.

The Senior Syndicated Secured Credit Facility was agreed to be borrowed in two tranches.

Tranche A amounting to \$230,000 was drawn down in full on September 24, 2019 and is scheduled to be repaid in 20 consecutive quarterly instalments of \$5,200 starting from December 12, 2019 and a balloon payment of \$126,000 payable on September 24, 2024.

The existing indebtedness that was refinanced comprised of the following credit facilities:

- \$55,700 Credit Agricole Credit Facility with an outstanding balance of \$50,961 as of September 19, 2019 (see note 11f).
- \$24,500 Blue Ocean Credit Facility with an outstanding balance of \$23,652 as of September 19, 2019 (see note 11g).
- \$65,300 ABN AMRO Credit Facility with an outstanding balance of \$61,595 as of September 19, 2019 (see note 11h).
- \$17,100 Amsterdam Trade Bank ("ATB") Credit Facility with an outstanding balance of \$12,600 as of September 19, 2019 (see note 11i).
- \$80,000 Credit Agricole Credit Facility with an outstanding balance of \$75,500 as of September 19, 2019 (see note 11j).

As of December 31, 2019, the outstanding balance of Tranche A amounted to \$224,800.

Tranche B amounts to \$38,000 and is committed for eight months after the signing of the loan agreement. Upon draw down, Tranche B is scheduled to be repaid in 20 consecutive quarterly instalments of \$1,000 and a balloon payment of \$18,000 payable in the termination date on the fifth anniversary from the utilization date of Tranche A, which falls in September 24, 2024. Tranche B has not been drawn down.

The interest rate is LIBOR plus a margin of 3.00% and is payable at each quarter end date.

**Global Ship Lease, Inc.**

**Notes to the Consolidated Financial Statements (continued)**

(Expressed in thousands of U.S. dollars)

**11. Long-Term Debt (continued)**

**e) \$38.5 Million Blue Ocean Junior Credit Facility**

On September 19, 2019, the Company entered into a refinancing agreement with Blue Ocean Income Fund LP, Blue Ocean Onshore Fund LP, and Blue Ocean Investments SPC Blue, holders of the outstanding debt of \$38,500 relevant to the previous Blue Ocean Credit Facility in order to refinance that existing facility with the only substantive change being to extend maturity at the same date with the Syndicated Senior Secured Credit Facility (see note 11k).

The Company fully drew down the facility on September 23, 2019 and it is scheduled to be repaid in a single instalment on the termination date which falls on September 24, 2024.

This facility bears interest at 10.00% per annum.

As of December 31, 2019, the outstanding balance on this facility amounted to \$38,500.

**f) \$55.7 Million Credit Agricole Credit Facility**

In connection with the Poseidon Transaction, the Company assumed debt from the three vessel owning companies of Dolphin II, Kristina and Athena, on the date of completion of the transaction of \$54,025 with Credit Agricole Corporate and Investment Bank ("Credit Agricole"). The agreement was dated August 11, 2017, with initial drawdown amount of \$55,650 and final maturity of December 31, 2020.

The facility had a repayment schedule along with a cash sweep clause, whereby the excess cash flows would be used against the outstanding balance of the facility and would be specifically applied to the prepayment of the balloon instalment up to a specific amount. Tranche A amounting to \$19,400 was scheduled to be repaid in four consecutive quarterly instalments of \$350 starting from March 31, 2020 and a balloon payment of \$18,000 payable in December 31, 2020. Tranche B amounting to \$10,500 was scheduled to be repaid in four consecutive quarterly instalments of \$200 starting from March 31, 2020 and a balloon payment of \$9,700 payable in December 31, 2020. Tranche C amounting to \$25,750 was scheduled to be repaid in four consecutive quarterly instalments of \$850 starting from March 31, 2020 and a balloon payment of \$22,350 payable also in December 31, 2020. In addition to the repayment schedule of all tranches and the cash sweep mechanism, certain financial covenants would apply starting from January 1, 2020.

This facility carried interest at LIBOR plus a margin of 2.75% per annum.

As of September 23, 2019, the outstanding balance on this facility amounted to \$50,961 was fully refinanced by the Syndicated Senior Secured Credit Facility (see note 11d).

**g) \$24.5 Million Blue Ocean Credit Facility**

In connection with the Poseidon Transaction, the Company assumed debt from the vessel owning company of Agios Dimitrios on the date of completion of the transaction of \$24,231 with Blue Ocean Income Fund LP, Blue Ocean Onshore Fund LP, Blue Ocean Investments SPC One and Blue Ocean Investments SPC Three (together, "Blue Ocean"). The agreement was dated August 11, 2017, with initial drawdown amount of \$24,500 and final maturity of December 31, 2020.

The facility had a following repayment schedule along with a cash sweep clause, whereby the excess cash flows would be used against the outstanding balance on the facility and would be specifically applied to the prepayment of the balloon instalment up to a specific amount. The facility was scheduled to be repaid in four consecutive quarterly instalments of \$650 starting from March 31, 2020 and a balloon payment of \$21,900 payable in December 31, 2020.

This facility bears interest on \$18,830 of principal at LIBOR plus a margin of 4.00% per annum.

As of September 24, 2019, the outstanding balance on this facility amounted to \$23,652 was fully refinanced by the Syndicated Senior Secured Credit Facility (see note 11d).

Global Ship Lease, Inc.

Notes to the Consolidated Financial Statements (continued)

(Expressed in thousands of U.S. dollars)

**11. Long-Term Debt (continued)**

**h) \$65.3 Million ABN AMRO Credit Facility**

In connection with the Poseidon Transaction, the Company assumed debt from the two vessel owning companies of Orca II and Katherine, on the date of completion of the transaction of \$64,254 with ABN AMRO Bank N.V. The agreement was dated August 30, 2017, with initial drawdown amount of \$65,300 and final maturity of December 31, 2020.

The facility had a following repayment schedule along with a cash sweep clause, whereby the excess cash flows would be used against the outstanding balance on the facility and would be specifically applied to the prepayment of the balloon instalment up to a specific amount. The facility was scheduled to be repaid in four consecutive instalments in the amount of \$1,125 starting from March 31, 2020 plus a balloon instalment of \$60,800 at the maturity date, December 31, 2020.

This facility bears interest at LIBOR plus a margin of 3.42% per annum up to March 31, 2019 and afterwards 3.50% per annum.

As of September 24, 2019, the outstanding balance on this facility amounted to \$61,595 was fully refinanced by the Syndicated Senior Secured Credit Facility (see note 11d).

**i) \$17.1 Million Amsterdam Trade Bank (“ATB”) Credit Facility**

In connection with the Poseidon Transaction, the Company assumed debt from THD Maritime Co. Limited, a holding company of the three vessel owning companies of Tasman, Dimitris Y and Ian H, on the date of completion of the transaction of \$17,100 with Amsterdam Trade Bank N.V. The agreement was dated October 9, 2018 with initial drawdown amount of \$17,100 divided in three tranches of \$5,700 each and final maturity of December 31, 2020.

The facility had a following repayment schedule along with a cash sweep clause, whereby the excess cash flows would be used against the outstanding balance on the facility and would be specifically applied to the prepayment of the balloon instalment up to a specific amount. Each Tranche was scheduled to be repaid in four consecutive quarterly instalments of \$110 each, with the first being due on March 31, 2020 and the final together with a balloon payment of \$5,260 on December 31, 2020.

This facility bears interest at LIBOR plus a margin of 3.90% per annum.

As of September 27, 2019, the outstanding balance on this facility amounted to \$12,600 was fully refinanced by the Syndicated Senior Secured Credit Facility (see note 11d).

**j) \$80.0 Million Credit Agricole Credit Facility**

In connection with the Poseidon Transaction, the Company assumed debt from the three vessel owning companies of Alexandra, Alexis, (previously named UASC Bubiyan) and Olivia I (previously named UASC Yas) on the date of completion of the transaction of \$80,000 with Credit Agricole. The agreement was dated October 3, 2018, with initial drawdown amount of \$80,000 and final maturity of June 30, 2020. An amendment to the agreement was entered into on April 22, 2019, whereby the final maturity date was amended to April 5, 2021 and the number of quarterly repayments increased from six to 10.

The Facility was repayable in 10 equal quarterly instalments of \$1,500 each with a final balloon of \$65,000 payable together with the final instalment.

This facility bears interest at LIBOR plus a margin of 3.00% per annum for the first 6 months, 3.25% for the following 12 months and 3.50% thereafter payable quarterly in arrears.

As of September 24, 2019, the outstanding balance on this facility amounted to \$75,500 was fully refinanced by the Syndicated Senior Secured Credit Facility (see note 11d).



Notes to the Consolidated Financial Statements (continued)

(Expressed in thousands of U.S. dollars)

**11. Long-Term Debt (continued)**

**k) \$38.5 Million Blue Ocean Credit Facility**

In connection with the Poseidon Transaction, the Company assumed debt from the three vessel owning companies of Alexandra, UASC Bubiyan and Olivia I (ex. UASC Yas) on the date of completion of the transaction of \$38,500 with Blue Ocean. The agreement was dated October 3, 2018, with initial drawdown amount of \$38,500 and final maturity of October 3, 2023.

The Facility is scheduled to be repaid in one instalment at maturity date and bears interest at 10.00% fixed payable quarterly in arrears.

As of September 19, 2019, the outstanding balance on this facility amounted to \$38,500 was refinanced by the Blue Ocean Junior Credit Facility (see note 11e).

**l) \$180.5 million Deutsche, CIT, HCOB, Entrust, Blue Ocean Credit Facility**

In connection with the Poseidon Transaction, the Company assumed debt from the three vessel owning companies of UASC Al Khor, Maira XL and Anthea Y on the date of completion of the transaction of \$180,500 with Deutsche Bank AG. The agreement is dated November 9, 2018, with initial drawdown amount of \$180,500 and final maturity of June 30, 2022.

On December 31, 2018, the Company entered into a deed of amendment and restatement with the bank. Based on this restatement there was a re-tranche of the existing facility such that it was split into a senior facility in an amount of \$141,900 ("Senior Facility") and a junior facility in an amount of \$38,600 ("Junior Facility"). The Lenders of the Senior Facility are Hamburg Commercial Bank AG, ("HCOB") Deutsche Bank AG and CIT Bank N.A and the Lenders of the Junior Facility are Blue Ocean GP LLC, Blue Ocean Income Fund LP, Blue Ocean Onshore Fund LP, Entrustpermal ICAV, Blue Ocean Investments SPC one and Blue Ocean Investments SPC for three. The final maturity of both Facilities (Senior and Junior) will be June 30, 2022. In addition to the repayment schedule a cash sweep mechanism based on a DSCR ratio of 1.10:1 (DSCR ratio is the ratio of Cash Flow to the Cash Flow Debt Service) will apply pro rata against the Senior Facility and the Junior Facility.

**Senior Facility**

The Senior Facility is comprised of three Tranches. Tranche A relates to Al Khor and is repayable in 14 instalments of \$868, and a final instalment of \$35,148. Tranche B relates to Anthea Y and is repayable in 14 instalments of \$863 and a final instalment of \$35,218. Tranche C relates to Maira XL and is repayable in 14 instalments of \$858 and a final instalment of \$35,288.

The Senior Facility bears interest at LIBOR plus 3.00% payable quarterly in arrears.

As of December 31, 2019, the outstanding balance on the Senior Facility was \$129,487.

**Junior Facility**

The Junior Facility is comprised of three Tranches. Tranche A relates to Al Khor and is repayable in 14 instalments of \$236 and a final instalment of \$9,563. Tranche B relates to Anthea Y and is repayable in 14 instalments of \$235 and a final instalment of \$9,577. Tranche C relates to Maira XL and is repayable in 14 instalments of \$233 and a final instalment of \$9,604.

The Junior Facility bears interest at LIBOR plus 10.00% payable quarterly in arrears.

As of December 31, 2019, the outstanding balance on the Junior Facility was \$35,223.

**Global Ship Lease, Inc.**

**Notes to the Consolidated Financial Statements (continued)**

(Expressed in thousands of U.S. dollars)

**11. Long-Term Debt (continued)**

**m) \$54.8 Million Citi Credit Facility**

On October 26, 2017, and in connection with the 2022 Notes, the Company entered into a new \$54,800 loan with Citibank N.A. The loan was drawn down in full on October 31, 2017 and matures no later than October 31, 2020. The interest rate is LIBOR plus a margin of 3.25% and is payable at least quarterly.

Amortization, which may be increased as described in note 11(a) above, is payable semi-annually and is a minimum of \$20,000 in each of the first and second years with the balance to be repaid in the third year.

The collateral provided to the 2022 Notes also secures on a first priority basis the Citi Credit Facility. The Company is required to have a minimum cash balance of \$20,000 on each test date, being March 31, June 30, September 30 and December 31 in each year.

As of December 31, 2019, the outstanding balance on this facility was \$12,077.

**n) \$65.0 Million Hayfin Credit Facility**

On September 7, 2018, the Company and certain subsidiaries entered into a facility agreement with Hayfin Services LLP (the "Lenders") which provided for a secured term loan facility of up to \$65,000. The Hayfin Credit Facility was to be borrowed in tranches and was to be used in connection with the acquisition of vessels as specified in the Hayfin Credit Facility or as otherwise agreed with the Lenders. Hayfin Credit Facility, which is non-amortizing, was available for drawing until May 10, 2019 and has a final maturity date of July 16, 2022. The interest rate is LIBOR plus a margin of 5.5% and is payable at each quarter end date. A commitment fee of 2.0% per annum was due on the undrawn commitments until May 10, 2019 when the availability period was terminated.

Any debt drawn under the Hayfin Credit Facility will be secured by first priority vessel mortgage on the acquired vessel (the "Facility Mortgaged Vessel") and by assignments of earnings and insurances, pledges over certain bank accounts, as well as share pledges over each subsidiary owning a Facility Mortgaged Vessel. In addition, the Hayfin Credit Facility is fully and unconditionally guaranteed, jointly and severally, by the Company, GSL Holdings, Inc. and Facility Mortgaged vessel owning subsidiaries. An initial tranche of \$8,125 was drawn on September 10, 2018 in connection with the acquisition of the GSL Valerie.

As of December 31, 2019, the outstanding balance of this facility was \$7,129.

**Global Ship Lease, Inc.**

**Notes to the Consolidated Financial Statements (continued)**

(Expressed in thousands of U.S. dollars)

**11. Long-Term Debt (continued)**

**o) \$59.0 Million Hellenic Bank Credit Facility**

On May 23, 2019, the Company via its subsidiaries, Global Ship Lease 30, 31 and 32 entered into a facility agreement with Hellenic Bank for an amount up to \$37,000. The Hellenic Bank Facility is to be borrowed in tranches and is to be used in connection with the acquisition of the vessels GSL Eleni, GSL Grania and GSL Kalliopi (see note 4).

An initial tranche of \$13,000 was drawn on May 24, 2019, in connection with the acquisition of the GSL Eleni. The Facility is repayable in 20 equal quarterly instalments of \$450 each with a final balloon of \$4,000 payable together with the final instalment.

A second tranche of \$12,000 was drawn on September 4, 2019, in connection with the acquisition of GSL Grania. The Facility is repayable in 20 equal quarterly instalments of \$400 each with a final balloon of \$4,000 payable together with the final instalment.

The third tranche of \$12,000 was drawn on October 3, 2019, in connection with the acquisition of GSL Kalliopi. The Facility is repayable in 20 equal quarterly instalments of \$400 each with a final balloon of \$4,000 payable together with the final instalment.

On December 10, 2019, the Company via its subsidiaries Global Ship Lease 33, 34 entered into an amended and restated loan agreement with Hellenic Bank for an additional facility of amount \$22,000 that is to be borrowed in two tranches and to be used in connection with the acquisition of the vessels GSL Vinia and GSL Christel Elisabeth. Both tranches were drawn on December 10, 2019 and are each repayable in 20 equal quarterly instalments of \$375 each with a final balloon of \$3,500 payable together with the final instalment.

This facility bears interest at LIBOR plus a margin of 3.90% per annum.

As of December 31, 2019, the outstanding balance of this facility was \$57,700.

**p) \$14.35 Million DVB Argos Credit Facility**

On November 14, 2018, the vessel owning company of Argos entered into a deed of amendment and restatement of a loan agreement on a \$14,300 facility with DVB Bank. This facility was fully repaid on December 19, 2018 following the sale of Argos.

**q) Repayment Schedule**

Maturities of long-term debt for the years subsequent to December 31, 2019 are as follows:

<b>Payment due by year ended</b>	<b>Amount</b>
December 31, 2020	\$ 87,532
December 31, 2021	82,848
December 31, 2022	438,408
December 31, 2023	33,975
December 31, 2024 and thereafter	270,086
	<b><u>\$ 912,849</u></b>

**Global Ship Lease, Inc.**

**Notes to the Consolidated Financial Statements (continued)**

(Expressed in thousands of U.S. dollars)

**11. Long-Term Debt (continued)**

**r) Deferred Financing Costs**

	<b>December 31, 2019</b>	<b>December 31, 2018</b>
Opening balance	\$ 9,299	\$ 12,818
Expenditure in the period	7,904	307
Amortization included within interest expense	(3,108)	(3,826)
<b>Closing balance</b>	<b>\$ 14,095</b>	<b>\$ 9,299</b>

In 2019, total costs amounting \$4,726 were incurred in connection with the Syndicated Senior Secured Credit Facility (see note 11d) and the Blue Ocean Junior Credit Facility (see note 11e) utilized for the refinance of certain then-existed credit facilities. Further, total costs amounting \$2,426 were incurred in connection with the issuance of 2024 Notes (see note 11b). Additionally, total costs amounting to \$752 were incurred in connection with the Hellenic Bank Credit Facility (see note 11o). These costs are being amortized on an effective interest rate basis over the life of the financings for which they were incurred.

In 2018, costs amounting to \$307 were incurred in connection with the Hayfin Credit Facility (see note 11n). for the acquisition of GSL Valerie. These are being amortized on an effective interest rate basis over the life of the financings for which they were incurred.

In addition, the Company incurred costs during 2018 amounting to \$2,055 in relation to the agreement and initial drawdown of the Hayfin Credit Facility. The arrangement fees for the Term Loan Facility were presented as Other Non Current Assets and amortized on a straight line basis over the Availability Period. Debt issuance costs for each tranche drawn down, were presented as a direct deduction from the carrying amount of that debt and amortized on a straight line basis over the life of the term loan remaining. The unamortised balance as of December 31, 2018 amounting to \$948 was written off during the second quarter of 2019 when the availability period was terminated.

**s) Debt covenants-securities**

Amounts drawn under the facilities listed above are secured by first priority mortgages on the Company's vessels and other collateral. The majority of the credit facilities contain a number of restrictive covenants that limit the Company from, among other things: incurring or guaranteeing indebtedness; charging, pledging or encumbering the vessels; changing the flag, class, management or ownership of the vessel owning entities. The credit facilities also require the vessels to comply with the ISM Code and ISPS Code and to maintain valid safety management certificates and documents of compliance at all times. Additionally, specific credit facilities require compliance with a number of financial covenants including debt ratios and minimum liquidity and corporate guarantor requirements. Among other events, it will be an event of default under the credit facilities if the financial covenants are not complied with.

As of December 31, 2019 and December 31, 2018, the Company was in compliance with its debt covenants.

**Global Ship Lease, Inc.**

**Notes to the Consolidated Financial Statements (continued)**

(Expressed in thousands of U.S. dollars)

**12. Time charter revenue**

Operating revenue from significant customers (constituting more than 10% of total time charter revenue) was as follows:

Charterer	Year Ended December 31,		
	2019	2018	2017
CMA CGM	57.18%	80.41%	77.82%
COSCO	10.88%	—	—
OOCL	—	Under 10%	22.18%

**13. Related Party Transactions**

CMA CGM is presented as a related party due to the fact that as of December 31, 2019, it was a significant shareholder of the Company, owning Class A common shares representing 11.20% and as of December 31, 2018, owning Class A and Class B common shares representing 15.55% and 44.4%, respectively of voting rights in the Company. Amounts due to and from CMA CGM companies are shown within amounts due to or from related parties in the Consolidated Balance Sheets.

**Time Charter Agreements**

A number of the Company's time charter arrangements are with CMA CGM. Under these time charters, hire is payable in advance and the daily rate is fixed for the duration of the charter. As of December 31, 2019, no charter hires were outstanding from the charterer. Revenues generated from charters to CMA CGM are presented in the Consolidated Statements of Operations. The outstanding receivables due from CMA CGM are presented in the Consolidated Balance Sheets under "Due from related parties" totaling \$2,968 and \$817 as of December 31, 2019 and December 31, 2018, respectively.

**Ship Management Agreements**

Technomar Shipping Inc. ("Technomar") is presented as a related party, as the Company's Executive Chairman is a significant shareholder. The Company has a number of ship management agreements with Technomar under which the ship manager is responsible for all day-to-day ship management, including crewing, purchasing stores, lubricating oils and spare parts, paying wages, pensions and insurance for the crew, and organizing other ship operating necessities, including the arrangement and management of dry-docking. As of December 31, 2019, the management of the Company's fleet was performed solely by Technomar.

As of December 31, 2018, the Company outsourced day-to-day technical management of seven of its vessels in the GSL Fleet to CMA Ships Limited ("CMA Ships"), a wholly owned subsidiary of CMA CGM. The Company paid CMA Ships an annual management fee of \$123 per vessel (2018: \$123, 2017: \$nil) and reimbursed costs incurred by CMA Ships on its behalf, mainly being for the provision of crew, lubricating oils and routine maintenance. Such reimbursement is subject to a cap per day per vessel, depending on the vessel. The impact of the cap is determined annually on a vessel by vessel basis for so long as the initial charters remain in place; no claims have been made under the cap agreement.

The management fees charged to the Company by Technomar and CMA Ships for the year ended December 31, 2019 amounted to \$9,159 and \$720, respectively (year ended December 31, 2018: Technomar-\$722 and CMA Ships-\$967 and year ended December 31, 2017: Technomar-\$nil and CMA Ships-\$1,599) and are shown in vessel operating expenses-related parties in the Consolidated Statements of Operations. As of December 31, 2019, no outstanding fees are presented due to Technomar and CMA Ships (December 31, 2018: Technomar: \$1,362 and CMA Ships: \$1,829). Additionally, as of December 31, 2019, outstanding receivables due from Technomar and CMA Ships totaling to \$855 and \$37 respectively are presented under "Due from related parties".

Global Ship Lease, Inc.

Notes to the Consolidated Financial Statements (continued)

(Expressed in thousands of U.S. dollars)

13. Related Party Transactions (continued)

Conchart Commercial Inc. (“Conchart”) provides commercial management services to the Company and is presented as a related party, as the Company’s Executive Chairman is the sole beneficial owner. Under the management agreements, Conchart, is responsible for (i) marketing of the Company’s vessels, (ii) seeking and negotiating employment of the Company’s vessels, (iii) advise the Company on market developments, developments of new rules and regulations, (iv) assisting in calculation of hires, freights, demurrage and/or dispatch monies and collection any sums related to the operation of vessels, (v) communicating with agents, and (vi) negotiating sale and purchase transactions. For the 19 vessels of Poseidon Fleet, the agreements were effective from the date of the completion of the Poseidon Transaction; for the GSL Fleet, the agreements will come into effect when new charters are entered into and applied to seven vessels up to December 31, 2019; for all new acquired vessels during 2019, the agreements were effective since the commencement of their operations.

The fees charged to the Company by Conchart for the year ended December 31, 2019 amounted to \$1,845 (2018: \$222 and 2017: \$nil) and are disclosed within time charter and voyage costs-related parties in the Consolidated Statements of Operations.

Any outstanding fees due to Conchart are presented in the Consolidated Balance Sheets under “Due to related parties” totaling to \$109 and \$113 as of December 31, 2019 and 2018, respectively.

14. Commitments and Contingencies

Charter Hire Receivable

The Company has entered time charters for its vessels. The charter hire is fixed for the duration of the charter. The minimum contracted future charter hire receivable, net of address commissions, not allowing for any unscheduled off-hire, assuming expiry at earliest possible dates and assuming options callable by the Company included in the charters are not exercised, for the 43 vessels as at December 31, 2019 is as follows:

	<b>Amount</b>
December 31, 2020	\$ 236,876
December 31, 2021	172,068
December 31, 2022	142,411
December 31, 2023	106,747
Thereafter	51,698
<b>Total minimum lease revenue, net of address commissions</b>	<b>\$ 709,800</b>

Notes to the Consolidated Financial Statements (continued)

(Expressed in thousands of U.S. dollars)

15. Share Capital

Common shares

As of December 31, 2019, the Company had one class of common shares.

On October 1, 2019, the Company closed a public offering of 7,613,788 Class A common shares, at an offering price of \$7.25 per share, for gross proceeds of \$55,200. This included the exercise in full by the underwriter of its option to purchase additional shares. The net proceeds, after underwriting discounts and commissions and expenses, amounted to \$50,710 and are to be used for general corporate purposes, including the acquisition of containerships or the prepayment of debt.

On March 25, 2019, the Company effected a one-for-eight reverse stock split of the Company's issued Class A common shares (see note 1). The reverse stock split ratio and the implementation and timing of the reverse stock split were determined by the Company's Board of Directors, following approval of shareholders at a Special Meeting on March 20, 2019. The reverse stock split did not change the authorized number of shares or par value of the Company's common shares. As part of the completion of the Poseidon Transaction, the outstanding shares of Class B common shares converted to Class A common shares on a one-for-one basis on January 2, 2019 and were also retrospectively adjusted for the one-for-eight reverse stock split.

On completion of the Poseidon Transaction on November 15, 2018, the Company issued 3,005,603 Class A common shares and 250,000 new Series C Preferred Shares of par value \$0.01. Each Series C Preferred Share carries 38.75 votes and are convertible in certain circumstances to a total of 12,955,187 Class A common shares. They are entitled to a dividend only should such a dividend be declared on the Class A common shares. As a part of the completion of the Poseidon Transaction, all outstanding restricted stock units vested on November 15, 2018 and as a result a total of 60,425 Class A common shares were also issued.

Restricted stock units have been granted periodically to the Directors and management, under the Company's Equity Incentive Plans, as part of their compensation arrangements (see note 16).

Preferred shares

On December 10, 2019, the Company entered into At Market Issuance Sales Agreement with B. Riley FBR under which the Company may, from time to time, issue depositary shares, each of which represents 1/100th of one share of the Company's 8.75% Series B Cumulative Redeemable Perpetual Preferred Shares (the "Series B Preferred Shares"). In 2019, the Company issued 428 Series B Preferred Shares for net proceeds of \$856.

On August 20, 2014, the Company issued 1,400,000 Series B Preferred Shares. The net proceeds from the offering were \$33,497. Dividends are payable at 8.75% per annum in arrears on a quarterly basis. At any time after August 20, 2019 (or within 180 days after the occurrence of a fundamental change), the Series B Preferred Shares may be redeemed, at the discretion of the Company, in whole or in part, at a redemption price of \$2,500.00 per share (equivalent to \$25.00 per depositary share).

These shares are classified as Equity in the Consolidated Balance Sheets. The dividends payable on the Series B Preferred Shares are presented as a reduction of Retained Earnings in the Consolidated Statements of Equity, when and if declared by the Board of Directors. An initial dividend was declared on September 22, 2014 for the third quarter 2014. Subsequent dividends have been declared for all quarters.

Global Ship Lease, Inc.

Notes to the Consolidated Financial Statements (continued)

(Expressed in thousands of U.S. dollars except share data)

16. Share-Based Compensation

In July 2019, the Compensation Committee of the Board of Directors approved stock-based awards to senior management under the Company's 2019 Omnibus Incentive Plan (the "2019 Plan"). A total of 1,359,375 shares of incentive stock may be issued pursuant to the awards, in four tranches. The first tranche is to vest conditioned only on continued service over the three year period which commenced January 1, 2019. Tranches two, three and four will vest when the Company's stock price exceeds \$8.00, \$11.00 and \$14.00, respectively, over a 60 day period. The \$8.00 threshold was achieved in January 2020.

On February 4, 2019, the 2019 Plan was adopted, and the 2015 Plan and its predecessor plan from 2008 were terminated.

The 2019 Plan is administered by the Compensation Committee of the Board. The maximum aggregate number of Class A common shares that may be delivered pursuant to awards granted under the 2019 Plan during its 10-year term is 1,812,500. The maximum number of Class A common shares with respect to which awards may be granted to any non-employee director in any one calendar year is 12,500 shares or \$100,000.

As a consequence of the completion of the Poseidon Transaction, all outstanding restricted stock units vested on November 15, 2018 and as a result a total of 60,425 Class A common shares were issued.

Restricted stock units were granted to five members of management on March 1, 2018 under the 2015 Plan, as part of their 2018 remuneration, divided into two tranches. The first tranche (12,500 restricted stock units) would vest when the individual leaves employment, provided that this was after March 31, 2019 and was not for cause. The second tranche (12,500 restricted stock units) would also vests after March 31, 2019 on the same terms, but, in addition, only if and when the share price had been at or above \$24.00 for 20 consecutive trading days and provided that this had occurred before December 31, 2021.

Restricted stock units were granted to five members of management on January 8, 2018 under the 2015 Plan, as part of their 2017 remuneration, divided into two tranches. The first tranche (12,500 restricted stock units) would vest when the individual left employment, provided that this was after March 31, 2018 and was not for cause. The second tranche (12,500 restricted stock units) would also vests after March 31, 2018 on the same terms, but, in addition, only if and when the share price had been at or above \$24.00 for 20 consecutive trading days and provided that this had occurred before December 31, 2020.

No restricted stock units were granted during 2017.

Share based awards, are summarized as follows:

	Restricted Stock Units		
	Management	Weighted Average Fair Value on Grant Date	Actual Fair Value on Vesting Date
<b>Unvested as at January 1, 2017</b>	<b>62,500</b>	<b>\$ 19.36</b>	<b>n/a</b>
Granted in 2017	—	—	n/a
<b>Unvested as at December 31, 2017</b>	<b>62,500</b>	<b>\$ 19.36</b>	<b>n/a</b>
Granted on January 8, 2018	25,000	9.28	n/a
Granted on March 1, 2018	25,000	9.04	n/a
Vested on November 15, 2018	(112,500)	n/a	7.92
<b>Unvested as at December 31, 2018</b>	<b>—</b>	<b>\$ —</b>	<b>—</b>
Granted on January 1, 2019	1,359,375	3.79	n/a
<b>Unvested as at December 31, 2019</b>	<b>1,359,375</b>	<b>\$ 3.79</b>	<b>n/a</b>



**Global Ship Lease, Inc.**

**Notes to the Consolidated Financial Statements (continued)**

(Expressed in thousands of U.S. dollars except share data)

**16. Share-Based Compensation (continued)**

Using the graded vesting method of expensing the restricted stock unit grants, the weighted average fair value of the stock units is recognized as compensation costs in the Consolidated Statements of Operations over the vesting period. The fair value of the restricted stock units for this purpose is calculated by multiplying the number of stock units by the fair value of the shares at the grant date. The Company has not factored any anticipated forfeiture into these calculations based on the limited number of participants.

On November 15, 2018, as a result of the completion of the Poseidon Transaction, all 112,500 unvested restricted stock units vested and as a result, 60,425 Class A common shares were issued, with the balance being retained by the Company to fund individual's personal tax liabilities under UK tax legislation, based on a fair value per share of \$7.92.

During the year ended December 31, 2018, 4,266 shares were issued under the 2015 Plan, representing 20% of directors' base fee for 2017 and 2016 respectively. The number of shares to be issued was determined based on a notional value per share of \$32.00 rather than market values.

During the year ended December 31, 2019, the Company recognized a total of \$1,717 (2018: \$50 and 2017: \$272), in respect of stock based compensation.

**17. Earnings/(Loss) per Share**

Under the two-class method, net income/(loss), if any, is first reduced by the amount of dividends declared in respect of common shares for the current period, if any, and the remaining earnings are allocated to common shares and participating securities to the extent that each security can share the earnings assuming all earnings for the period are distributed. The net income allocated to Class A and Series C shares was based on an as converted basis utilizing the two-class method.

Earnings/ (losses) are only allocated to participating securities in a period of net income/ (loss) if, based on the contractual terms, the relevant common shareholders have an obligation to participate in such earnings. No such obligation exists for Class B common shareholders as at December 31, 2019, as they have converted to Class A common shares on a one-for-one basis on January 2, 2019 (see note 15). As a result, earnings would only be allocated to the Class A common shareholders and Series C preferred shareholders.

At December 31, 2019, there were 1,359,375 shares of restricted stock units granted and unvested as part of management's equity incentive plan. At December 31, 2018, there were no unvested awards under any of the Company's incentive plans. As at December 31, 2017, there were 62,500 restricted stock units granted and unvested as part of management's equity incentive plan. As of December 31, 2018, only Class A and B common shares and Series C preferred shares were participating securities.

Global Ship Lease, Inc.

Notes to the Consolidated Financial Statements (continued)

(Expressed in thousands of U.S. dollars except share data)

17. Earnings/(Loss) per Share (continued)

	December 31, 2019	December 31, 2018	December 31, 2017
<b>Numerator:</b>			
Net income/(loss) attributable to common shareholders	\$ 36,757	\$ (60,426)	\$ (77,328)
Undistributed (income)/ loss attributable to Series C participating preferred shares	(19,190)	12,110	—
Net income/(loss) available to common shareholders, basic and diluted	17,567	(48,316)	(77,328)
Net income/(loss) available to:			
Class A, basic and diluted	17,567	(48,316)	(77,328)
Class B, basic and diluted	—	—	—
<b>Denominator:</b>			
<b>Class A Common shares</b>			
Basic weighted average number of common shares outstanding	\$ 11,859,506	\$ 6,514,390	\$ 5,946,986
Weighted average number of RSUs without service conditions	—	—	50,000
Dilutive effect of share-based awards	—	—	5,996,986
Common share and common share equivalents, basic	11,859,506	6,514,390	5,996,986
Plus weighted average number of RSUs with service conditions	47,400	—	—
Common share and common share equivalents, dilutive	11,906,906	6,514,390	5,996,986
<b>Class B Common shares</b>			
Basic weighted average number of common shares outstanding	—	925,745	925,745
Common shares, basic and diluted	\$ —	\$ 925,745	\$ 925,745
<b>Basic earnings/(losses) per share:</b>			
Class A	1.48	(7.42)	(12.89)
Class B	—	—	—
<b>Diluted earnings/ (losses) per share:</b>			
Class A	1.48	(7.42)	(12.89)
Class B	—	—	—
<b>Series C Preferred Shares-basic and diluted earnings per share:</b>			
Undistributed income attributable to Series C participating preferred shares	19,190	(12,110)	—
Basic weighted average number of Series C Preferred shares outstanding, as converted	\$ 12,955,187	\$ 1,632,709	\$ —
Plus weighted average number of RSUs with service conditions	51,780	—	—
Dilutive weighted average number of Series C Preferred shares outstanding, as converted	13,006,967	1,632,709	—
Basic earnings / (loss) per share	1.48	(7.42)	—
Diluted earnings / (loss) per share	1.48	(7.42)	—

**Global Ship Lease, Inc.**

**Notes to the Consolidated Financial Statements (continued)**

(Expressed in thousands of U.S. dollars except share data)

**18. Subsequent events**

On January 29, 2020, the Company took delivery of a 2002-built, 6,422 TEU containership for a purchase price of \$13,000 (see note 4).

On February 21, 2020, the Company took delivery of a further 2002-built, 6,422 TEU containership, for a purchase price of \$13,000 (see note 4).

Subsequent to the year end, DVB's outstanding credit facility that matured on December 31, 2020, was fully refinanced through the utilization of Tranche B of the \$268,000 Syndicated Senior Secured Credit Facility (see note 11d) and an additional facility of \$9,000 that the Company entered on February 26, 2020, with an international bank and secured by Maira, Nikolas and Newyorker.

On February 10, 2020, the Company completed an optional redemption of \$46,000 aggregate principal amount of its 2022 Notes at a redemption price of \$48,271 (representing 104.938% of the aggregate principal amount) plus accrued and unpaid interest.

After the year end and up to March 31, 2020, the Company in connection with the At Market Issuance Sales Agreements (see notes 11b and 15) has received net proceeds of \$4,013 from the issuance of Series B Preferred Shares and an \$18,844 from the offer and sale of new issued issuance of 2024 Notes.

On March 5, 2020, a dividend of \$0.546875 per Series B Preferred Share was announced for the first quarter 2020.

In March 2020, pending disposal, the Company agreed to a short-term charter to commence April 4, 2020, for GSL Matisse, at a confidential rate.

COVID-19 Outbreak: The outbreak of the novel coronavirus (COVID-19) that originated in China in December 2019 and that, as of the date of this report, has spread to most developed nations of the world has resulted in the implementation of numerous actions taken by governments and governmental agencies in an attempt to control or mitigate the spread of the virus. These measures have resulted in a significant reduction in global economic activity and uncertainty in the global financial markets. When these measures and the resulting economic impact will end and what the long-term impact of such measures is on the global economy cannot be known at this time. A significant reduction in manufacturing and other economic activities has and will continue to have a material and adverse impact on the global production and supply of the goods that our customers transport on our vessels. The scale and duration, as well as the impact, of these factors, while currently uncertain, could have a material and adverse impact on our earnings, cash flows and financial condition for 2020. Accordingly, an estimate of the impact cannot be made at this time.

This AMENDMENT NO. 1 (this “**Amendment No. 1**”) to the FIRST SUPPLEMENTAL INDENTURE, dated as of November 19, 2019 (the “**First Supplemental Indenture**”), is entered into as of April 2, 2020, by and between GLOBAL SHIP LEASE, INC., a corporation duly organized and existing under the laws of the Republic of The Marshall Islands (the “**Company**”), and WILMINGTON SAVINGS FUND SOCIETY, FSB, a federal savings bank organized and existing under the laws of the United States of America, as trustee (the “**Trustee**”).

#### RECITALS

**WHEREAS**, the Company and the Trustee have heretofore executed and delivered an indenture, dated as of November 19, 2019 (the “**Base Indenture**”), and together with the First Supplemental Indenture, the “**Indenture**”) and the First Supplemental Indenture thereto, relating to the Company’s 8.00% Senior Notes due 2024 (the “**Notes**”); and

**WHEREAS**, Section 9.01 of the Indenture provides, in pertinent part, that the Company and the Trustee may amend or supplement the Indenture without the consent of any Securityholder to cure any ambiguity, to correct or supplement any provision in the First Supplemental Indenture which may be defective or inconsistent with any other provisions of the Indenture, or to make provisions in regard to matters or questions arising under the Indenture, so long as such other provisions do not adversely affect the interest of any other Holder of the Notes in any material respect.

**NOW, THEREFORE**, in consideration of the premises and for other good and valuable consideration, the sufficiency and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

#### ARTICLE I DEFINITIONS

Section 1.01. *Definitions*. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.

#### ARTICLE II AMENDMENT

Section 2.01. *Amendment to Section 3.03(c)*. Section 3.03(c) of the First Supplemental Indenture shall be amended by replacing the reference to “December 15” with the reference to “November 15.”

#### ARTICLE III MISCELLANEOUS

Section 3.01. *Effectiveness of this Amendment No. 1*. This Amendment No. 1 will become effective immediately upon its execution by the parties hereto. This Amendment No. 1 and the Indenture shall henceforth be read together.

Section 3.02. *Continuing Effect of Indenture.* Except as expressly provided herein, all of the terms, provisions and conditions of the Indenture shall remain unchanged and are in all respects confirmed and preserved.

Section 3.03. *Governing Law.* THIS AMENDMENT NO. 1 SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO AGREEMENTS MADE OR INSTRUMENTS ENTERED INTO AND, IN EACH CASE, PERFORMED IN THE STATE OF NEW YORK.

Section 3.04. *Counterparts.* This Amendment No. 1 may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. The exchange of copies of this Amendment No. 1 and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Amendment No. 1.

Section 3.05. *Headings.* The Article and Section headings of this Amendment No. 1 are for convenience only and shall not affect the construction hereof.

IN WITNESS WHEREOF, the parties have caused this Amendment No. 1 to be duly executed as of the date first written above.

**COMPANY:**

**GLOBAL SHIP LEASE, INC.**

By: /s/ Ian J. Webber

\_\_\_\_\_  
Name: Ian J. Webber

Title: Chief Executive Officer

*[Signature Page to Amendment No. 1 to the First Supplemental Indenture]*

**TRUSTEE:**

**WILMINGTON SAVINGS FUND  
SOCIETY, FSB, not in its individual  
capacity, but solely in its capacity as Trustee**

By: /s/ Geoffrey Lewis

Name: Geoffrey Lewis

Title: Vice President

By: /s/ Raye Goldsborough

Name: Raye Goldsborough

Title: Assistant Vice President

*[Signature Page to Amendment No. 1 to the First Supplemental Indenture]*

**DESCRIPTION OF THE REGISTRANT’S SECURITIES REGISTERED PURSUANT TO SECTION 12 OF THE SECURITIES EXCHANGE ACT OF 1934**

As of December 31, 2019, Global Ship Lease, Inc. (the “Company”) had the following classes of securities registered under Section 12 of the Securities Exchange Act of 1934, as amended:

- (1) Class A common shares, par value \$0.01 per share (the “Class A common shares”);
- (2) 8.75% Series B Cumulative Redeemable Perpetual Preferred Shares (the “Series B Preferred Shares”);
- (3) Depositary Shares, each of which represents 1/100<sup>th</sup> interest in a share of Series B Preferred Shares (the “Depositary Shares”); and
- (4) 8.00% Senior Unsecured Notes due 2024 (the “Notes”).

The following description sets forth certain material provisions of these securities. The following summary does not purport to be complete and is subject to, and is qualified in its entirety by reference to, the applicable provisions of (i) the Company’s Amended and Restated Articles of Incorporation, as amended (the “Articles of Incorporation”), (ii) the Company’s Third Amended and Restated Bylaws (the “Bylaws”); (iii) the Certificate of Designation of the 8.75% Series B Cumulative Redeemable Perpetual Preferred Shares, filed with the Registrar or Deputy Registrar of Corporations of the Republic of the Marshall Islands effective August 19, 2014, as amended by the Certificate of Amendment effective December 9, 2019 (as amended, the “Certificate of Designation”); (iv) the indenture dated as of November 19, 2019 (the “Base Indenture”), between the Company and Wilmington Savings Fund Society, FSB, as trustee (the “Trustee”), as supplemented by a first supplemental indenture dated as of November 19, 2019, between the Company and the Trustee (the “First Supplemental Indenture”), and as amended by Amendment No. 1 to the First Supplemental Indenture dated April 2, 2020 between the Company and the Trustee (the “Amendment No. 1” and together with the Base Indenture and the First Supplemental Indenture, the “Indenture”), each of which is incorporated by reference as an exhibit to the Annual Report on Form 20-F of which this Exhibit is a part. We encourage you to refer to the Articles of Incorporation, Bylaws, Certificate of Designation and Indenture, as applicable, for additional information.

Under our Articles of Incorporation, our authorized capital stock consists of 249 million registered common shares, of which 214 million are designated as Class A common shares, par value \$0.01 per share, 20 million are designated as Class B common shares, par value \$0.01 and 15 million are designated as Class C common shares, par value \$0.01. The Company is authorized to issue up to one million registered preferred shares, par value \$0.01 per share.

**DESCRIPTION OF COMMON SHARES**

As of December 31, 2019, we had 17,556,738 Class A common shares issued and outstanding. The Class A common shares have the voting rights described below under “Voting Rights” and the dividend rights described below under “Dividend Rights”, subject to preferences that may be applicable to any outstanding preferred shares. Holders of our Class A common shares do not have solely by reason thereof conversion or redemption rights or any preemptive rights to subscribe for any of our unissued securities pursuant to our Articles of Incorporation. The rights, preferences and privileges of holders of our Class A common shares are subject to the rights of the holders of any preferred shares.

**Voting Rights**

The Class A common shares, the Class B common shares and the Class C common shares each have one vote and vote together as a single class except that any amendment to the Articles of Incorporation, including those made pursuant to the terms of any merger, consolidation or similar transaction, that would increase or decrease the aggregate number of authorized common shares of a class, increase or decrease the par value of common shares of a class, or alter or change the powers, preferences or rights of the class of common shares so as to affect them adversely, must be approved by the holders of not less than a majority of the votes entitled to be cast by the holders of such class of common shares then outstanding, voting separately as a class. Our directors are elected by the vote of the majority of the votes cast of the Class A, Class B and Class C common shares, voting as a single class with respect to each director. For purposes thereof, a majority of the votes cast means that the number of shares voted “for” a director must exceed the number of votes cast against that director. A majority of the Class A and Class B common shares in the aggregate shall constitute a quorum. Our Articles of Incorporation prohibits cumulative voting. As of December 31, 2019, there were no Class B or Class C common shares outstanding.

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## **Dividend Rights**

Subject to preferences that may be applicable to any outstanding preferred shares, holders of Class A common shares are entitled to receive ratably all dividends, if any, declared by our board of directors out of funds legally available for dividends. Dividends, when declared, must be paid as follows:

- first, to all Class A common shares at the applicable rate for the quarter;
- second, to all Class A common shares until they have received payment for all preceding quarters at the rate of \$0.23 per quarter;
- third, to all Class B common shares at the applicable rate for the quarter;
- fourth, to all Class A and B common shares as if they were a single class.

The Class B common shares remain subordinated until we have paid a dividend at least equal to \$0.23 per quarter per share on both the Class A and Class B common shares for the immediately preceding four-quarter period. Due to the requirements described above, Class B common shares do not receive any dividend until all Class A common shares have received dividends representing \$0.23 per share per quarter for all preceding quarters. As of December 31, 2019, we had no Class B common shares outstanding.

## **Liquidation Rights**

Upon our dissolution or liquidation or the sale of all or substantially all of our assets, after payment in full of all amounts required to be paid to creditors and to the holders of preferred stock having liquidation preferences, if any, the holders of our common shares are entitled to receive pro rata our remaining assets available for distribution.

## **Limitations on Ownership**

Under Marshall Islands law generally and our Articles of Incorporation, there are no limitations on the right of non-residents of the Marshall Islands or owners who are not citizens of the Marshall Islands to hold or vote our common shares.

## **Anti-takeover Effect of Certain Provisions of our Articles of Incorporation and Bylaws**

Several provisions included in the Articles of Incorporation and Bylaws may have anti-takeover effects. These provisions were intended to avoid costly takeover battles, lessen our vulnerability to a hostile change of control and enhance the ability of the board of directors to maximize shareholder value in connection with any unsolicited offer to acquire us. However, these anti-takeover provisions, which are summarized below, could also discourage, delay or prevent (1) the merger or acquisition of us by means of a tender offer, a proxy contest or otherwise, that a shareholder may consider in its best interest, and (2) the removal of incumbent officers and directors.

### *Blank check preferred stock*

The Articles of Incorporation authorize the issuance of one million blank check preferred shares with such designation, rights and preferences as may be determined from time to time by the board of directors. The board of directors may issue preferred shares on terms calculated to discourage, delay or prevent a change of control or the removal of its management. Moreover, our authorized but unissued common shares and preferred shares are available for future issuances without shareholder approval and could be utilized for a variety of corporate purposes, including future offerings to raise additional capital, acquisitions and employee benefit plans. The existence of authorized but unissued and unreserved common shares and preferred shares could render more difficult or discourage an attempt to obtain control of us by means of a proxy contest, tender offer, merger or otherwise.

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### *Classified Board of Directors*

Our Articles of Incorporation provides for a board of directors serving staggered, three-year terms. Approximately one-third of our board of directors are elected each year. This classified board of directors provision could discourage a third party from making a tender offer for our shares or attempting to obtain control of us. It could also delay shareholders who do not agree with the policies of the board of directors from removing a majority of the board of directors for two years. Our Articles of Incorporation also prohibits cumulative voting.

### *Calling of Special Meetings of Shareholders*

Our Bylaws provide that special meetings of our shareholders may be called only by the Chairman of the board of directors or by resolution of the board of directors. Accordingly, a shareholder will be prevented from calling a special meeting for shareholder consideration of a proposal unless scheduled by our board of directors and shareholder consideration of a proposal may be delayed until the next annual meeting.

### *Advance Notice Requirements for Shareholder Proposals and Director Nominations*

Our Bylaws provide that shareholders seeking to nominate candidates for election as directors or to bring business before an annual meeting of shareholders must provide timely notice of their proposal in writing to the corporate secretary.

Generally, to be timely, a shareholder's notice must be received at our principal executive offices not less than 90 days nor more than 120 days prior to the first anniversary date of the immediately preceding annual meeting of shareholders. Our bylaws also specify requirements as to the form and content of a shareholder's notice. These provisions may impede shareholders' ability to bring matters before an annual meeting of shareholders or make nominations for directors at an annual meeting of shareholders.

### *Business combinations*

Although the Marshall Islands Business Corporations Act (the "BCA") does not contain specific provisions regarding "business combinations" between companies organized under the laws of the Marshall Islands and "interested shareholders," the Articles of Incorporation includes applicable provisions that prohibit us from engaging in a business transaction with an interested shareholder for a period of three years after the date of the transaction in which the person became an interested shareholder, unless:

- prior to the date of the transaction that resulted in the shareholder becoming an interested shareholder, the board of directors approved either the business combination or the transaction that resulted in the shareholder becoming an interested shareholder;
- upon consummation of the transaction that resulted in the shareholder becoming an interested shareholder, the interested shareholder owned at least 85% of the voting shares of the corporation outstanding at the time the transaction commenced; or
- at or subsequent to the date of the transaction that resulted in the shareholder becoming an interested shareholder, the business combination is approved by the board of directors and authorized at an annual or special meeting of shareholders by the affirmative vote of at least 66 2/3% of the outstanding voting shares that are not owned by the interested shareholder.

For the purpose of these provisions, a "business combination" includes mergers, consolidations, exchanges, asset sales, leases and other transactions resulting in a financial benefit to the interested shareholder and an "interested shareholder" is any person or entity that beneficially owns 15% or more of our outstanding voting shares and any person or entity affiliated with or controlling or controlled by that person or entity.

### **Listing**

The Class A common shares are listed on the New York Stock Exchange (the "NYSE"), under the symbol "GSL."

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## Marshall Islands Company Considerations

Our corporate affairs are governed by our Articles of Incorporation and Bylaws and by the BCA. The provisions of the BCA resemble provisions of the corporation laws of a number of states in the United States. While the BCA also provides that it is to be interpreted according to the laws of the State of Delaware and other states with substantially similar legislative provisions, there have been few, if any, court cases interpreting the BCA in the Marshall Islands and we cannot predict whether Marshall Islands courts would reach the same conclusions as courts in the United States. As a result, you may have more difficulty protecting your interests in the face of actions by our management, directors or controlling shareholders than would shareholders of a corporation incorporated in a U.S. jurisdiction which has developed a substantial body of case law. The following table provides a comparison between the statutory provisions of the BCA and the General Corporation Law of the State of Delaware relating to shareholders' rights.

<b>Marshall Islands</b>	<b>Delaware</b>
<b>Shareholder Meetings</b>	
Held at a time and place as designated in the bylaws.	May be held at such time or place as designated in the certificate of incorporation or the bylaws, or if not so designated, as determined by the board of directors.
Special meetings of the shareholders may be called by the board of directors or by such person or persons as may be authorized by the articles of incorporation or by the bylaws.	Special meetings of the shareholders may be called by the board of directors or by such person or persons as may be authorized by the certificate of incorporation or by the bylaws.
May be held within or without the Marshall Islands.	May be held within or without Delaware.
<i>Notice:</i>	<i>Notice:</i>
Whenever shareholders are required to take any action at a meeting, written notice of the meeting shall be given which shall state the place, date and hour of the meeting and, unless it is an annual meeting, indicate that it is being issued by or at the direction of the person calling the meeting. Notice of a special meeting shall also state the purpose for which the meeting is called.	Whenever shareholders are required to take any action at a meeting, a written notice of the meeting shall be given which shall state the place, if any, date and hour of the meeting, and the means of remote communication, if any.
A copy of the notice of any meeting shall be given personally, sent by mail or by electronic mail not less than 15 nor more than 60 days before the meeting.	Written notice shall be given not less than 10 nor more than 60 days before the meeting.

### **Shareholders' Voting Rights**

Unless otherwise provided in the articles of incorporation, any action required to be taken at a meeting of shareholders may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken, is signed by all the shareholders entitled to vote with respect to the subject matter thereof, or if the articles of incorporation so provide, by the holders of outstanding shares having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted.

Any person authorized to vote may authorize another person or persons to act for him by proxy.

Any action required to be taken at a meeting of shareholders may be taken without a meeting if a consent for such action is in writing and is signed by shareholders having not fewer than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted.

Any person authorized to vote may authorize another person or persons to act for him by proxy.

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**Marshall Islands**

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Unless otherwise provided in the articles of incorporation or bylaws, a majority of shares entitled to vote constitutes a quorum. In no event shall a quorum consist of fewer than one-third of the shares entitled to vote at a meeting.

When a quorum is once present to organize a meeting, it is not broken by the subsequent withdrawal of any shareholders.

The articles of incorporation may provide for cumulative voting in the election of directors.

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**Delaware**

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For stock corporations, the certificate of incorporation or bylaws may specify the number of shares required to constitute a quorum but in no event shall a quorum consist of less than one-third of shares entitled to vote at a meeting. In the absence of such specifications, a majority of shares entitled to vote shall constitute a quorum.

When a quorum is once present to organize a meeting, it is not broken by the subsequent withdrawal of any shareholders.

The certificate of incorporation may provide for cumulative voting in the election of directors.

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**Merger or Consolidation**

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Any two or more domestic corporations may merge into a single corporation if approved by the board and if authorized by a majority vote of the holders of outstanding shares at a shareholder meeting.

Any sale, lease, exchange or other disposition of all or substantially all the assets of a corporation, if not made in the corporation's usual or regular course of business, once approved by the board, shall be authorized by the affirmative vote of two-thirds of the shares of those entitled to vote at a shareholder meeting.

Any domestic corporation owning at least 90% of the outstanding shares of each class of another domestic corporation may merge such other corporation into itself without the authorization of the shareholders of any corporation.

Any mortgage, pledge of or creation of a security interest in all or any part of the corporate property may be authorized without the vote or consent of the shareholders, unless otherwise provided for in the articles of incorporation.

Any two or more corporations existing under the laws of the state may merge into a single corporation pursuant to a board resolution and upon the majority vote by shareholders of each constituent corporation at an annual or special meeting.

Every corporation may at any meeting of the board sell, lease or exchange all or substantially all of its property and assets as its board deems expedient and for the best interests of the corporation when so authorized by a resolution adopted by the holders of a majority of the outstanding stock of the corporation entitled to vote.

Any corporation owning at least 90% of the outstanding shares of each class of another corporation may merge the other corporation into itself and assume all of its obligations without the vote or consent of shareholders; however, in case the parent corporation is not the surviving corporation, the proposed merger shall be approved by a majority of the outstanding stock of the parent corporation entitled to vote at a duly called shareholder meeting.

Any mortgage or pledge of a corporation's property and assets may be authorized without the vote or consent of shareholders, except to the extent that the certificate of incorporation otherwise provides.

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**Directors**

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The board of directors must consist of at least one member.

The number of board members may be changed by an amendment to the bylaws, by the shareholders, or by action of the board under the specific provisions of a bylaw.

The board of directors must consist of at least one member.

The number of board members shall be fixed by, or in a manner provided by, the bylaws, unless the certificate of incorporation fixes the number of directors, in which case a change in the number shall be made only by an amendment to the certificate of incorporation.

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**Marshall Islands**

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If the board is authorized to change the number of directors, it can only do so by a majority of the entire board and so long as no decrease in the number shall shorten the term of any incumbent director.

**Removal:**

Any or all of the directors may be removed for cause by vote of the shareholders.

If the articles of incorporation or the bylaws so provide, any or all of the directors may be removed without cause by vote of the shareholders.

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**Delaware**

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If the number of directors is fixed by the certificate of incorporation, a change in the number shall be made only by an amendment of the certificate.

**Removal:**

Any or all of the directors may be removed, with or without cause, by the holders of a majority of the shares entitled to vote unless the certificate of incorporation otherwise provides.

In the case of a classified board, shareholders may effect removal of any or all directors only for cause.

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**Dissenters' Rights of Appraisal**

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Shareholders have a right to dissent from any plan of merger, consolidation or sale of all or substantially all assets not made in the usual course of business, and receive payment of the fair value of their shares. However, the right of a dissenting shareholder under the BCA to receive payment of the appraised fair value of his shares shall not be available for the shares of any class or series of stock, which shares or depository receipts in respect thereof, at the record date fixed to determine the shareholders entitled to receive notice of and to vote at the meeting of the shareholders to act upon the agreement of merger or consolidation, were either (i) listed on a securities exchange or admitted for trading on an interdealer quotation system or (ii) held of record by more than 2,000 holders. The right of a dissenting shareholder to receive payment of the fair value of his or her shares shall not be available for any shares of stock of the constituent corporation surviving a merger if the merger did not require for its approval the vote of the shareholders of the surviving corporation.

Appraisal rights shall be available for the shares of any class or series of stock of a corporation in a merger or consolidation, subject to limited exceptions, such as a merger or consolidation of corporations listed on a national securities exchange in which listed stock is offered for consideration is (i) listed on a national securities exchange or (ii) held of record by more than 2,000 holders.

A holder of any adversely affected shares who does not vote on or consent in writing to an amendment to the articles of incorporation has the right to dissent and to receive payment for such shares if the amendment:

- Alters or abolishes any preferential right of any outstanding shares having preference; or
  - Creates, alters, or abolishes any provision or right in respect to the redemption of any outstanding shares; or
  - Alters or abolishes any preemptive right of such holder to acquire shares or other securities; or
  - Excludes or limits the right of such holder to vote on any matter, except as such right may be limited by the voting rights given to new shares then being authorized of any existing or new class.
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**Shareholder's Derivative Actions**

An action may be brought in the right of a corporation to procure a judgment in its favor, by a holder of shares or of voting trust certificates or of a beneficial interest in such shares or certificates. It shall be made to appear that the plaintiff is such a holder at the time of bringing the action and that he was such a holder at the time of the transaction of which he complains, or that his shares or his interest therein devolved upon him by operation of law.

A complaint shall set forth with particularity the efforts of the plaintiff to secure the initiation of such action by the board or the reasons for not making such effort.

Such action shall not be discontinued, compromised or settled, without the approval of the High Court of the Republic of the Marshall Islands.

Reasonable expenses including attorney's fees may be awarded if the action is successful.

A corporation may require a plaintiff bringing a derivative suit to give security for reasonable expenses if the plaintiff owns less than 5% of any class of outstanding shares or holds voting trust certificates or a beneficial interest in shares representing less than 5% of any class of such shares and the shares, voting trust certificates or beneficial interest of such plaintiff has a fair value of \$50,000 or less.

In any derivative suit instituted by a shareholder of a corporation, it shall be averred in the complaint that the plaintiff was a shareholder of the corporation at the time of the transaction of which he complains or that such shareholder's stock thereafter devolved upon such shareholder by operation of law.

Other requirements regarding derivative suits have been created by judicial decision, including that a shareholder may not bring a derivative suit unless he or she first demands that the corporation sue on its own behalf and that demand is refused (unless it is shown that such demand would have been futile).

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## DESCRIPTION OF SERIES B PREFERRED SHARES AND DEPOSITARY SHARES

Each Depositary Share represents 1/100<sup>th</sup> of one share of Series B Preferred Shares. As of December 31, 2019, there were 44,000 authorized Series B Preferred Shares under the Certificate of Designation, 14,428 of which were issued and outstanding. The Series B Preferred Shares outstanding are deposited with Computershare Inc. and Computershare Trust Company, N.A., as applicable, as depositary, under the Deposit Agreement among us, the Depositary and the registered holders and indirect and beneficial owners from time to time of the Depositary Shares (the “Deposit Agreement”). The Deposit Agreement sets forth the terms of the Depositary Shares. In general, each Depositary Share represents, and entitles the holder, subject to the terms of the Deposit Agreement, to proportional rights and preferences (including dividends, voting, redemption and liquidation rights and preferences) as if such holder held 1/100<sup>th</sup> of one share of Series B Preferred Shares. The material terms of the Series B Preferred Shares and the Depositary Shares are summarized below.

### Series B Preferred Shares

#### Ranking

The Series B Preferred Shares, with respect to anticipated quarterly dividends and distributions upon the liquidation, winding-up and dissolution of our affairs, rank:

- senior to our common stock and to each other class or series of capital stock that has been or will be established after the original issue date of the Series B Preferred Shares that is not expressly made senior to or on parity with the Series B Preferred Shares as to the payment of dividends and amounts payable upon liquidation, dissolution or winding up, whether voluntary or involuntary (“Junior Securities”);
- *pari passu* with any class or series of capital stock that has been or will be established after the original issue date of the Series B Preferred Shares with terms expressly providing that such class or series ranks on a parity with the Series B Preferred Shares as to the payment of dividends and amounts payable upon liquidation, dissolution or winding up, whether voluntary or involuntary (“Parity Securities”); and
- junior to all of our indebtedness and other liabilities with respect to assets available to satisfy claims against us, and each other class or series of capital stock expressly made senior to the Series B Preferred Shares as to the payment of dividends and amounts payable upon liquidation, dissolution or winding up, whether voluntary or involuntary (“Senior Securities”).

Under the Certificate of Designation, we may issue Junior Securities from time to time in one or more series without the consent of the holders of the Series B Preferred Shares. Our board of directors has the authority to determine the preferences, powers, qualifications, limitations, restrictions and special or relative rights or privileges, if any, of any such series before the issuance of any shares of that series. Our board of directors will also determine the number of shares constituting each series of securities. Our ability to issue additional Parity Securities in certain circumstances or Senior Securities is limited as described under “—Voting Rights.”

#### Liquidation Rights

The holders of outstanding Series B Preferred Shares are entitled, in the event of any liquidation, dissolution or winding up of our affairs, whether voluntary or involuntary, to receive the liquidation preference of \$2,500.00 per share (equivalent to \$25.00 per Depositary Share) in cash plus an amount equal to accumulated and unpaid dividends thereon to the date fixed for payment of such amount (whether or not declared), and no more, before any distribution will be made to the holders of our common stock or any other Junior Securities. Neither the sale of all or substantially all of the property or business of the Company nor the consolidation or merger of us with or into any other entity, individually or in a series of transactions, will be deemed a liquidation, dissolution or winding up of our affairs for this purpose.

In the event that our assets available for distribution to holders of the outstanding Series B Preferred Shares and any Parity Securities are insufficient to permit payment of all required amounts, our assets then remaining will be distributed among the Series B Preferred Shares and any Parity Securities, as applicable, ratably on the basis of their relative aggregate liquidation preferences plus the amount of any accumulated and unpaid dividends thereon (whether or not declared). After payment of all required amounts to the holders of the outstanding Series B Preferred Shares and Parity Securities, our remaining assets and funds will be distributed among the holders of our common stock and any other Junior Securities then outstanding according to their respective rights.

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## ***Voting Rights***

The Series B Preferred Shares have no voting rights except as set forth below or as otherwise provided by Marshall Islands law. In the event that six quarterly dividends payable on the Series B Preferred Shares are in arrears, whether or not consecutive, the holders of the Series B Preferred Shares, have the right, voting as a class together with holders of any Parity Securities upon which like voting rights have been conferred and are exercisable, at the next meeting of stockholders called for the election of directors, to elect one member to our board of directors, and the size of our board of directors will be increased as needed to accommodate such change (unless the size of our board of directors already has been increased by reason of the election of a director by holders of Parity Securities upon which like voting rights have been conferred and with which the Series B Preferred Shares voted as a class for the election of such director). The right of such holders of Series B Preferred Shares to elect one member of our board of directors will continue until such time as all dividends accumulated and in arrears on the Series B Preferred Shares have been paid in full or sufficient funds for such payment have been declared and set apart for such purpose, at which time such right will terminate, subject to the revesting of such right in the event of each and every subsequent failure to pay six quarterly dividends as described above and, with respect to funds set apart for payment, upon failure to pay the dividend on the Dividend Payment Date. Upon any termination of the right of the holders of the Series B Preferred Shares and any other Parity Securities to vote as a class for directors, the term of office of all directors then in office elected by such holders voting as a class will terminate immediately. Any director elected by the holders of the Series B Preferred Shares and any other Parity Securities shall each be entitled to one vote on any matter before our board of directors.

Unless we have received the affirmative vote or consent of the holders of at least two-thirds of the outstanding Series B Preferred Shares, voting as a single class, we may not adopt any amendment to our Articles of Incorporation that materially and adversely alters the preferences, powers or rights of the Series B Preferred Shares.

In addition, unless we have received the affirmative vote or consent of the holders of at least two-thirds of the outstanding Series B Preferred Shares, voting as a class together with holders of any other Parity Securities upon which like voting rights have been conferred and are exercisable, we may not create or issue any Senior Securities.

On any matter described above in which the Series B Preferred Shareholders are entitled to vote as a class, whether separately or together with the holders of any Parity Securities, such holders will be entitled to one vote per \$25.00 of liquidation preference (equivalent to 100 votes per Series B Preferred Share). Any shares of Series B Preferred Shares held by us or any of our subsidiaries or affiliates will not be entitled to vote.

No vote or consent of Series B Preferred Shareholders shall be required for (i) the creation or incurrence of any indebtedness, (ii) the authorization or issuance of any common stock or other Junior Securities or (iii) except as expressly provided above, the authorization or issuance of any of our preferred shares.

Series B Preferred Shares held in nominee or street name account will be voted by the broker or other nominee in accordance with the instruction of the beneficial owner unless the arrangement between the beneficial owner and his nominee provides otherwise.

## ***Dividends***

### ***General***

Holders of Series B Preferred Shares will be entitled to receive, when, as and if declared by our board of directors, cumulative cash dividends out of legally available funds for such purpose, payable on each Dividend Payment Date commencing on the first Dividend Payment Date following issuance.

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Dividends on the Series B Preferred Shares offered hereby will accrue from the Dividend Payment Date immediately preceding issuance at a rate of 8.75% per annum of the \$2,500.00 per share liquidation preference of Series B Preferred Shares (equivalent to \$25.00 per Depositary Share). The dividend rate is not subject to adjustment.

#### *Dividend Payment Dates*

The “Dividend Payment Dates” for the Series B Preferred Shares is each of January 1, April 1, July 1 and October 1. Dividends will accumulate in each dividend period from and including the Dividend Payment Date immediately preceding issuance to but excluding the next applicable Dividend Payment Date for such dividend period. If any Dividend Payment Date otherwise would fall on a day that is not a Business Day, declared dividends will be paid on the immediately succeeding Business Day without the accumulation of additional dividends. Dividends on the Series B Preferred Shares will be payable based on a 360-day year consisting of twelve 30-day months. “Business Day” means a day on which the NYSE is open for trading and which is not a Saturday, a Sunday or other day on which banks in New York City, London or Amsterdam are authorized or required to close.

#### *Payment of Dividends*

Not later than 5:00 p.m., New York City time, on each Dividend Payment Date, we will pay those dividends, if any, on the Series B Preferred Shares that have been declared by our board of directors to the Paying Agent or, if there is no Paying Agent at the relevant time, the holders of such shares as such holders’ names appear on our share transfer books maintained by the Registrar and Transfer Agent on the applicable Record Date (as defined below). The applicable record date (the “Record Date”) will be the fifth Business Day immediately preceding the applicable Dividend Payment Date, except that in the case of payments of dividends in arrears, the Record Date with respect to a Dividend Payment Date will be such date as may be designated by our board of directors in accordance with the Certificate of Designation, our Articles of Incorporation and our Bylaws, each as amended and as may be further amended from time to time.

Declared dividends will be paid to the Paying Agent in same-day funds on each Dividend Payment Date. The Paying Agent will be responsible for holding or disbursing such payments to holders of the Series B Preferred Shares in accordance with the instructions of such holders. In certain circumstances, dividends may be paid by check delivered to the registered address of the holder of Series B Preferred Shares, unless, in any particular case, we elect to pay by wire transfer.

No dividend may be declared or paid or set apart for payment on any Junior Securities (other than a dividend payable solely in Junior Securities) unless full cumulative dividends have been or contemporaneously are being paid or declared and set aside for payment on all outstanding Series B Preferred Shares and any Parity Securities through the most recent respective dividend payment dates.

Accumulated dividends in arrears for any past dividend period may be declared by our board of directors and paid on any date fixed by our board of directors, whether or not a Dividend Payment Date, to holders of the Series B Preferred Shares on the record date for such payment, which may not be more than 60 days, nor less than five days, before such payment date. Subject to the next succeeding sentence, if all accumulated dividends in arrears on all outstanding Series B Preferred Shares and any Parity Securities have not been declared and paid, or sufficient funds for the payment thereof have not been declared and set apart, payment of accumulated dividends in arrears will be made in order of their respective dividend payment dates, commencing with the earliest. If less than all dividends payable with respect to all Series B Preferred Shares and any Parity Securities are paid, any partial payment will be made pro rata with respect to the Series B Preferred Shares and any Parity Securities entitled to a dividend payment at such time in proportion to the aggregate amounts remaining due in respect of such shares at such time. Holders of the Series B Preferred Shares will not be entitled to any dividend, whether payable in cash, property or shares, in excess of full cumulative dividends. No interest or sum of money in lieu of interest will be payable in respect of any dividend payment which may be in arrears on the Series B Preferred Shares.

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## **Redemption**

### *Optional Redemption*

At any time, we may redeem, at our option, in whole or in part, the Series B Preferred Shares (and accordingly the Depositary Shares) at a redemption price in cash equal to \$2,500.00 per share (equivalent to \$25.00 per Depositary Share) plus an amount equal to all accumulated and unpaid dividends thereon to the date of redemption, whether or not declared. Any such optional redemption shall be effected only out of funds legally available for such purpose. We may undertake multiple partial redemptions.

### *Redemption Procedures*

We will provide notice of any redemption, not less than 30 days and not more than 60 days before the scheduled date of redemption, to the holders of any shares to be redeemed as such holders' names appear on our share transfer books maintained by the Registrar and Transfer Agent at the address of such holders shown therein. Such notice shall state: (1) the redemption date, (2) the number of Series B Preferred Shares to be redeemed and, if less than all outstanding shares of Series B Preferred Shares are to be redeemed, the number (and the identification) of shares to be redeemed from such holder, (3) the redemption price, (4) the place where the shares of Series B Preferred Shares are to be redeemed and shall be presented and surrendered for payment of the redemption price therefor, and (5) that dividends on the shares to be redeemed will cease to accumulate from and after such redemption date.

If fewer than all of the outstanding shares of Series B Preferred Shares are to be redeemed, the number of shares to be redeemed will be determined by us, and such shares of Series B Preferred Shares will be redeemed by such method of selection as the Paying Agent shall determine, either pro rata or by lot, with adjustments to avoid redemption of fractional shares.

The redemption price will be paid by the Paying Agent to the holders of the Series B Preferred Shares on the redemption date.

The aggregate redemption price for any such partial redemption of the outstanding Series B Preferred Shares shall be allocated correspondingly among the redeemed shares of Series B Preferred Shares. The shares of Series B Preferred Shares not redeemed shall remain outstanding and entitled to all the rights and preferences provided in the Certificate of Designation (including our right, if we so elect, to redeem all or part of the Series B Preferred Shares outstanding at any relevant time in accordance with the redemption provisions described herein).

If we give or cause to be given a notice of redemption, then we will deposit with the Paying Agent funds sufficient to redeem the Series B Preferred Shares as to which notice has been given no later than 10:00 a.m., New York City time, on the Business Day fixed for redemption, and will give the Paying Agent irrevocable instructions and authority to pay the redemption price to the holder or holders thereof upon surrender or deemed surrender of such Series B Preferred Shares. If notice of redemption shall have been given, then from and after the date fixed for redemption, unless we default in providing funds sufficient for such redemption at the time and place specified for payment pursuant to the notice, all dividends on such shares will cease to accumulate and all rights of holders of such shares of Series B Preferred Shares as Series B Preferred Shareholders will cease, except the right to receive the redemption price, including an amount equal to accumulated and unpaid dividends through the date fixed for redemption, whether or not declared. We will be entitled to receive from the Paying Agent the interest income, if any, earned on such funds deposited with the Paying Agent (to the extent that such interest income is not required to pay the redemption price of the shares to be redeemed), and the holders of any shares so redeemed will have no claim to any such interest income. Any funds deposited with the Paying Agent hereunder by us for any reason, including, but not limited to, redemption of Series B Preferred Shares, that remain unclaimed or unpaid after two years after the applicable redemption date or other payment date, shall, to the extent permitted by law, be repaid to us upon our written request, after which repayment the holders of the Series B Preferred Shares entitled to such redemption or other payment shall have recourse only to us.

Any Series B Preferred Shares that are redeemed or otherwise acquired by the Company shall be cancelled and shall constitute preferred shares subject to designation by the Board of Directors set forth in our Articles of Incorporation. If only a portion of the Series B Preferred Shares has been called for redemption, upon surrender of any certificate representing Series B Preferred Shares to the Paying Agent, the Paying Agent will issue to the holder of such shares a new certificate (or adjust the applicable book-entry account) representing the number of shares of Series B Preferred Shares represented by the surrendered certificate that have not been called for redemption.

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Notwithstanding any notice of redemption, there will be no redemption of any Series B Preferred Shares called for redemption until funds sufficient to pay the full redemption price of such shares, including all accumulated and unpaid dividends to the date of redemption, whether or not declared, have been deposited by us with the Paying Agent.

We and our affiliates may from time to time purchase shares of the Series B Preferred Shares, subject to compliance with all applicable securities and other laws. Neither we nor any of our affiliates has any obligation, or any present plan or intention, to purchase any Series B Preferred Shares. Any shares repurchased and canceled by us will revert to the status of authorized but unissued preferred shares undesignated by us.

Notwithstanding the foregoing, in the event that full cumulative dividends on the Series B Preferred Shares and any Parity Securities have not been paid or declared and set apart for payment, we may not repurchase, redeem or otherwise acquire (1) any Series B Preferred Shares or Parity Securities, except pursuant to a purchase or exchange offer made on the same terms to all holders of Series B Preferred Shares and any Parity Securities, an exchange for or conversion or reclassification into other Parity Securities or Junior Securities or with proceeds of a substantially contemporaneous sale of Parity Securities or Junior Securities, or (2) any common stock and any other Junior Securities, except pursuant to an exchange for or conversion or reclassification into other Junior Securities or with proceeds of a substantially contemporaneous sale of Junior Securities.

### ***No Sinking Fund***

The Series B Preferred Shares do not have the benefit of any sinking fund.

### **Depository Shares**

#### ***General***

Each Depository Share represents a 1/100<sup>th</sup> interest in one Series B Preferred Share, and once issued will be evidenced by depository receipts, as described under “Registration and Settlement—Book-Entry System.” The underlying shares of the Series B Preferred Shares are deposited with a depository pursuant to the Deposit Agreement. Subject to the terms of the Deposit Agreement, the Depository Shares are entitled to all the powers, preferences and special rights of the Series B Preferred Shares, as applicable, in proportion to the applicable fraction of a share of Series B Preferred Shares those Depository Shares represent.

References to “holders” of Depository Shares herein mean those who have depository receipts registered in their own names on the books maintained by the depository and not indirect holders who own beneficial interests in depository receipts registered in the street name of, or issued in book-entry form through, The Depository Trust Company, or “DTC.” DTC is the only registered holder of the depository receipts representing Depository Shares. You should review the special considerations that apply to indirect holders described in “Registration and Settlement—Book-Entry System.”

The depository, transfer agent and registrar for the Depository Shares is Computershare Inc. and Computershare Trust Company, N.A., as applicable.

### ***Dividends and Other Distributions***

Each dividend payable on a Depository Share will be in an amount equal to 1/100<sup>th</sup> of the dividend declared and payable on the related share of the Series B Preferred Shares. The depository will distribute all dividends and other cash distributions received on the Series B Preferred Shares to the holders of record of the depository receipts in proportion to the number of Depository Shares held by each holder. In the event of a distribution other than in cash, the depository will distribute property received by it to the holders of record of the depository receipts as nearly as practicable in proportion to the number of Depository Shares held by each holder, unless the depository determines that this distribution is not feasible, in which case the depository may, with our approval, adopt a method of distribution that it deems practicable, including the sale of the property and distribution of the net proceeds of that sale to the holders of the depository receipts.

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Record dates for the payment of dividends and other matters relating to the Depositary Shares are the same as the corresponding record dates for the related shares of Series B Preferred Shares.

The amount paid as dividends or otherwise distributable by the depositary with respect to the Depositary Shares or the underlying Series B Preferred Shares will be reduced by any amounts required to be withheld by us or the depositary on account of taxes or other governmental charges. The depositary may refuse to make any payment or distribution, or any transfer, exchange, or withdrawal of any Depositary Shares or the shares of the Series B Preferred Shares until such taxes or other governmental charges are paid.

#### ***Redemption of Depositary Shares***

If we redeem the Series B Preferred Shares, in whole or in part, as described above under “—Series B Preferred Shares—Redemption,” Depositary Shares also will be redeemed with the proceeds received by the depositary from the redemption of the Series B Preferred Shares held by the depositary. The redemption price per Depositary Share will be  $1/100^{\text{th}}$  of the redemption price per share payable with respect to the Series B Preferred Shares, plus any declared and unpaid dividends, without accumulation of undeclared dividends.

If we redeem shares of the Series B Preferred Shares held by the depositary, the depositary will redeem, as of the same redemption date, the number of Depositary Shares representing those shares of the Series B Preferred Shares so redeemed. If we redeem less than all of the outstanding Depositary Shares, the depositary will select pro rata, by lot or in such other manner as may be determined by the depositary to be fair and equitable, those Depositary Shares to be redeemed. The depositary will deliver notice of redemption to record holders of the depositary receipts not less than 30 and not more than 60 days prior to the date fixed for redemption of the Series B Preferred Shares and the related Depositary Shares.

#### ***Voting the Series B Preferred Shares***

Because each Depositary Share represents a  $1/100^{\text{th}}$  interest in a share of the Series B Preferred Shares, holders of depositary receipts are entitled to  $1/100^{\text{th}}$  of a vote per Depositary Share under those limited circumstances in which holders of the Series B Preferred Shares are entitled to a vote, as described above in “—Series B Preferred Shares—Voting Rights.”

When the depositary receives notice of any meeting at which the holders of the Series B Preferred Shares are entitled to vote, the depositary will deliver the information contained in the notice to the record holders of the Depositary Shares relating to the Series B Preferred Shares. Each record holder of the Depositary Shares on the record date, which will be the same date as the record date for the Series B Preferred Shares, may instruct the depositary to vote the amount of the Series B Preferred Shares represented by the holder’s Depositary Shares. To the extent practicable, the depositary will vote the amount of the Series B Preferred Shares represented by Depositary Shares in accordance with the instructions it receives. We will agree to take all actions that the depositary determines are necessary to enable the depositary to vote as instructed. If the depositary does not receive specific instructions from the holders of any Depositary Shares representing the Series B Preferred Shares, it will abstain from voting with respect to such shares.

#### ***Withdrawal of Series B Preferred Shares***

Underlying shares of Series B Preferred Shares may be withdrawn from the depositary arrangement upon surrender of depositary receipts at the depositary’s office and upon payment of the taxes, charges and fees provided for in the Deposit Agreement. Subject to the terms of the Deposit Agreement, the holder of depositary receipts will receive the appropriate number of shares of Series B Preferred Shares represented by such Depositary Shares. Only whole shares of Series B Preferred Shares may be withdrawn; if a holder holds an amount other than a whole multiple of 100 Depositary Shares, the depositary will deliver along with the withdrawn shares of Series B Preferred Shares a new depositary receipt evidencing the excess number of Depositary Shares. Holders of withdrawn shares of Series B Preferred Shares will not be entitled to redeposit such shares or to receive Depositary Shares.

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## ***Amendment of the Deposit Agreement***

We and the depositary may generally amend the form of depositary receipt evidencing the depositary shares and any provision of the Deposit Agreement at any time without the consent of the holders of Depositary Shares in any respect that we and the depositary deem necessary or desirable. However, any amendment that materially and adversely alters the rights of the holders or that would be materially and adversely inconsistent with the rights granted to holders of the Series B Preferred Shares will not be effective unless such amendment has been approved by holders of Depositary Shares representing at least a majority of the Depositary Shares then outstanding.

## ***Form and Notices***

The Series B Preferred Shares will be issued in registered form to the depositary, and the Depositary Shares will be issued in book-entry only form through DTC, as described below in “Registration and Settlement—Book-Entry System”. The depositary will forward to the holders of Depositary Shares all reports, notices, and communications from us that are delivered to the depositary and that we are required to furnish to the holders of the Series B Preferred Shares.

## ***Listing***

The Depositary Shares are listed on the NYSE under the symbol “GSL-B.” The Series B Preferred Shares represented by Depositary Shares are not listed and we do not expect that there will be any other trading market for the Series B Preferred Shares except as represented by the Depositary Shares. Currently, there is no public market for the Series B Preferred Shares and a limited public market for the Depositary Shares.

## ***Registration and Settlement***

### ***Book-Entry System***

The Depositary Shares are, and will be, issued in book-entry only form through the facilities of DTC. This means that actual depositary receipts will not be issued to each holder of Depositary Shares, except in limited circumstances. Instead, the Depositary Shares will be in the form of a single global depositary receipt deposited with and held in the name of DTC, or its nominee. In order to own a beneficial interest in a depositary receipt, you must be an organization that participates in DTC or have an account with an organization that participates in DTC, including Euroclear Bank S.A./N.V., as operator of the Euroclear System (“Euroclear”), and Clearstream Banking, *société anonyme* (“Clearstream”).

Except as described herein, owners of beneficial interests in the global depositary receipt will not be entitled to have depositary receipts registered in their names, will not receive or be entitled to receive physical delivery of the depositary receipts in definitive form, and will not be considered the owners or holders of Depositary Shares under our Articles of Incorporation or the Deposit Agreement, including for purposes of receiving any reports or notices delivered by us. Accordingly, each person owning a beneficial interest in the depositary receipts must rely on the procedures of DTC and, if that person is not a participant, on the procedures of the participant through which that person owns its beneficial interest, in order to exercise any rights of a holder of Depositary Shares.

If we discontinue the book-entry only form system of registration, we will replace the global depositary receipt with depositary receipts in certificated form registered in the names of the beneficial owners.

## ***Settlement***

Investors in the Depositary Shares will be required to make their payment for the Depositary Shares in immediately available funds. DTC requires secondary market trading activity in the Depositary Shares to settle in immediately available funds. This requirement may affect trading activity in the Depositary Shares.

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### ***Payment of Dividends***

We will pay dividends, if any, on the Series B Preferred Shares represented by Depositary Shares in book-entry form to the depositary. In turn, the depositary will deliver the dividends to DTC in accordance with the arrangements then in place between the depositary and DTC. Generally, DTC will be responsible for crediting the dividend payments it receives from the depositary to the accounts of DTC participants, and each participant will be responsible for disbursing the dividend payment for which it is credited to the holders that it represents. As long as the Depositary Shares are represented by a global depositary receipt, we will make all dividend payments in immediately available funds. In the event depositary receipts are issued in certificated form, dividends generally will be paid by check delivered to the holders of the depositary receipts on the applicable record date at the address appearing on the security register.

### ***Notices***

Any notices required to be delivered to you will be given by the depositary to DTC for communication to its participants.

If the depositary receipts are issued in certificated form, notices to you also will be delivered to the addresses of the holders as they appear on the security register.

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## DESCRIPTION OF NOTES

The following description is only a summary of certain provisions of the Notes and the Indenture. You should read these documents in their entirety because they, and not this description, define the rights of holders of the Notes. The following summary does not purport to be complete and is subject to, and is qualified in its entirety by reference to, the Trust Indenture Act of 1939, as amended (the “TIA”), and to all of the provisions of the Indenture and those terms made a part of the Indenture by reference to the TIA.

### Ranking

The Notes are senior unsecured obligations of the Company, and, upon our liquidation, dissolution or winding up, will rank (i) senior to the outstanding shares of our common stock, (ii) senior to any of our future subordinated debt, (iii) *pari passu* (or equally) with our existing and future unsecured and unsubordinated indebtedness, (iv) effectively subordinated to any existing or future secured indebtedness (including indebtedness that is initially unsecured to which we subsequently grant security), to the extent of the value of the assets securing such indebtedness and (v) structurally subordinated to all existing and future indebtedness of our subsidiaries, including trade payables.

### Interest

Interest on the Notes accrue at an annual rate equal to 8.00% from and including November 19, 2019, and thereafter, from the last date on which interest has been paid, to, but excluding, the maturity date or earlier acceleration or redemption date and will be payable quarterly in arrears on the last day of February, May, August and November of each year, beginning on February 29, 2020, and at maturity, to the record holders at the close of business on the immediately preceding February 15, May 15, August 15 and November 15 as applicable (whether or not a business day).

The initial interest period for the Notes will be the period from and including November 19, 2019 (or the most recent payment date immediately preceding the date of issuance of the Notes), to, but excluding, February 29, 2020 (or the next interest payment date), and the subsequent interest periods will be the periods from and including an interest payment date to, but excluding, the next interest payment date or the stated maturity date, as the case may be.

The amount of interest payable for any interest period, including interest payable for any partial interest period, will be computed on the basis of a 360-day year comprised of twelve 30-day months. If an interest payment date falls on a non-business day, the applicable interest payment will be made on the next business day and no additional interest will accrue as a result of such delayed payment.

“Business day” means, for any place where the principal and interest on the Notes is payable, each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day in which banking institutions in New York, New York are authorized or obligated by law or executive order to close.

### Optional Redemption

The Notes may be redeemed for cash in whole or in part at any time at our option (i) on or after December 31, 2021 and prior to December 31, 2022, at a price equal to 102% of the principal amount to be redeemed, (ii) on or after December 31, 2022 and prior to December 31, 2023, at a price equal to 101% of the principal amount to be redeemed, and (iii) on or after December 31, 2023 and prior to maturity, at a price equal to 100% of the principal amount to be redeemed, in each case, plus accrued and unpaid interest to, but excluding, the date of redemption.

### Optional Redemption in Case of Change of Control

If a Change of Control Event (as defined below) occurs, we will have the right, but not the obligation, before December 31, 2021, to redeem the Notes, in whole but not in part, within 90 days of the occurrence of such Change of Control Event, at a redemption price in cash equal to 104% of the aggregate principal amount of Notes to be redeemed, plus accrued and unpaid interest to, but excluding, the date of redemption.

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“Capital Stock” means, with respect to any entity, any and all shares, interests, participations or other equivalents (however designated, whether voting or non-voting), including partnership or limited liability company interests, whether general or limited, in the equity of such entity (including without limitation all warrants, options, derivative instruments, or rights of subscription or conversion relating to or affecting Capital Stock), whether outstanding on the issue date of the Notes or issued thereafter.

“Change of Control Event” means: the acquisition by any person, including any syndicate or group deemed to be a “person” under Section 13(d)(3) of the Exchange Act, of beneficial ownership, directly or indirectly, through a purchase, merger or other acquisition transaction or series of purchases, mergers or other acquisition transactions, of the Capital Stock entitling that person to exercise more than 50% of the total voting power of all the Capital Stock entitled to vote generally in the election of the Company’s directors (except that such person will be deemed to have beneficial ownership of all securities that such person has the right to acquire, whether such right is currently exercisable or is exercisable only upon the occurrence of a subsequent condition).

### **Redemption—General**

Any redemption shall be upon notice not fewer than 30 days and not more than 60 days prior to the date fixed for redemption. If less than all of the Notes are to be redeemed, the particular Notes to be redeemed will be selected not more than 45 days prior to the redemption date by the trustee from the outstanding Notes not previously called for redemption, by lot, provided that the unredeemed portion of the principal amount of any Notes will be in an authorized denomination (which will not be less than the minimum authorized denomination) for such Notes. The trustee will promptly notify us in writing of the Notes selected for redemption and, in the case of any Notes selected for partial redemption, the principal amount thereof to be redeemed. Beneficial interests in any of the Notes or portions thereof called for redemption that are registered in the name of DTC or its nominee will be selected by DTC in accordance with DTC’s applicable procedures.

Unless we default on the payment of the redemption price, on and after the date of redemption, interest will cease to accrue on the Notes called for redemption.

### **Events of Default**

Holders of our Notes will have rights if an Event of Default occurs in respect of the Notes and is not cured, as described later in this subsection. The term “Event of Default” in respect of the Notes means any of the following:

- (1) we do not pay interest on any Note when due, and such default is not cured within 30 days;
- (2) we do not pay the principal of the Notes when due and payable;
- (3) we breach any covenant or warranty in the Indenture with respect to the Notes and such breach continues for 60 days after we receive a written notice of such breach from the trustee or the holders of at least 25% of the principal amount of the Notes; and
- (4) certain specified events of bankruptcy, insolvency or reorganization occur and remain undischarged or unstayed for a period of 90 consecutive days following entry of such final judgment or decree.

The trustee may withhold notice to the holders of the Notes of any default, except in the payment of principal or interest, if the trustee in good faith determines the withholding of notice to be in the interest of the holders of the Notes.

Each year, we will furnish to the trustee a written statement of certain of our officers certifying that to their knowledge we are in compliance with the Indenture and the Notes, or else specifying any default.

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### ***Remedies if an Event of Default Occurs***

If an Event of Default, other than an event of default described in clause (4) above, has occurred and is continuing, either the trustee or the holders of not less than 25% of the outstanding principal amount of the Notes may declare the entire principal amount of the Notes then outstanding, together with accrued and unpaid interest, if any, to be due and payable immediately by a notice in writing to us and, if notice is given by the holders of the Notes, the trustee. This is called an “acceleration of maturity.” If the Event of Default occurs in relation to our filing for bankruptcy or certain other events of bankruptcy, insolvency or reorganization occur, the principal amount of the Notes, together with accrued and unpaid interest, if any, will automatically, and without any declaration or other action on the part of the trustee or the holders, become immediately due and payable.

At any time after a declaration of acceleration of the Notes has been made by the trustee or the holders of the Notes and before any judgment or decree for payment of money due has been obtained by the trustee, the holders of a majority of the outstanding principal of the Notes, by written notice to us and the trustee, may rescind and annul such declaration and its consequences if (i) we have paid or deposited with the trustee all amounts due and owed with respect to the Notes (other than principal that has become due solely by reason of such acceleration) and certain other amounts, and (ii) any other Events of Default have been cured or waived.

At our election, the sole remedy with respect to an Event of Default due to our failure to comply with certain reporting requirements under the Trust Indenture Act or under “—Covenants—Reporting” below, for the first 180 calendar days after the occurrence of such Event of Default, consists exclusively of the right to receive additional interest on the Notes at an annual rate equal to (1) 0.25% for the first 90 calendar days after such default and (2) 0.50% for calendar days 91 through 180 after such default. On the 181<sup>st</sup> day after such Event of Default, if such violation is not cured or waived, the trustee or the holders of not less than 25% of the outstanding principal amount of the Notes may declare the principal, together with accrued and unpaid interest, if any, on the Notes to be due and payable immediately. If we choose to pay such additional interest, we must notify the trustee and the holders of the Notes by certificate of our election at any time on or before the close of business on the first business day following the Event of Default.

Before a holder of the Notes is allowed to bypass the trustee and bring a lawsuit or other formal legal action or take other steps to enforce such holder’s rights relating to the Notes, the following must occur:

- such holder must give the trustee written notice that the Event of Default has occurred and remains uncured;
- the holders of at least 25% of the outstanding principal of the Notes must have made a written request to the trustee to institute proceedings in respect of such Event of Default in its own name as trustee;
- such holder or holders must have offered to the trustee indemnity satisfactory to the trustee against the costs, expenses and liabilities to be incurred in compliance with such request;
- the trustee for 60 days after its receipt of such notice, request and offer of indemnity has failed to institute any such proceeding; and
- no direction inconsistent with such written request has been given to the trustee during such 60-day period by holders of a majority of the outstanding principal of the Notes.

No delay or omission in exercising any right or remedy will be treated as a waiver of that right, remedy or Event of Default.

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**Book-entry and other indirect holders of the Notes should consult their banks or brokers for information on how to give notice or direction to or make a request of the trustee and how to declare or cancel an acceleration of maturity.**

### ***Waiver of Defaults***

The holders of a majority of the outstanding principal amount of the Notes may on behalf of the holders of all Notes waive any past default with respect to the Notes other than (i) a default in the payment of principal or interest on the Notes when such payments are due and payable (other than by acceleration as described above), or (ii) in respect of a covenant that cannot be modified or amended without the consent of each holder of Notes.

### **Covenants**

In addition to any other covenants described in the accompanying prospectus, as well as standard covenants relating to payment of principal and interest, maintaining an office where payments may be made or securities can be surrendered for payment, payment of taxes by us and related matters, the following covenants will apply to the Notes. To the extent of any conflict or inconsistency between the base indenture and the following covenants, the following covenants will govern.

### ***Merger, Consolidation or Sale of Assets***

The Indenture provides that we will not merge or consolidate with or into any other person (other than a merger of a wholly-owned subsidiary into us), or sell, transfer, lease, convey or otherwise dispose of all or substantially all our property in any one transaction or series of related transactions unless:

- we are the surviving entity or the entity (if other than us) formed by such merger or consolidation or to which such sale, transfer, lease, conveyance or disposition is made will be a corporation or limited liability company organized and existing under the laws of the United States of America, any state thereof or the District of Columbia, the Republic of the Marshall Islands, the Commonwealth of the Bahamas, the Republic of Liberia, the Republic of Panama, the Commonwealth of Bermuda, the British Virgin Islands, the Cayman Islands, the Isle of Man, Cyprus, Norway, Greece, Hong Kong, the United Kingdom, Malta, any Member State of the European Union or any jurisdiction generally acceptable as determined in good faith by the board of directors of the Company, to institutional lenders in the shipping industries;
  - the surviving entity (if other than us) expressly assumes, by supplemental indenture in form reasonably satisfactory to the trustee, executed and delivered to the trustee by such surviving entity, the due and punctual payment of the principal of, and premium, if any, and interest on, all the Notes outstanding, and the due and punctual performance and observance of all the covenants and conditions of the Indenture to be performed by us;
  - immediately before and immediately after giving effect to such transaction or series of related transactions, no default or Event of Default has occurred and is continuing; and
  - in the case of a merger where the surviving entity is other than us, we or such surviving entity will deliver, or cause to be delivered, to the trustee, an officers' certificate and an opinion of counsel, each stating that such transaction and the supplemental indenture, if any, in respect thereto, comply with this covenant and that all conditions precedent in the Indenture relating to such transaction have been complied with.
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## **Reporting**

So long as any Notes are outstanding, we will (i) file with the Commission within the time periods prescribed by its rules and regulations and applicable to us and (ii) furnish to the Trustee and the holders of the Notes within 15 days after the date on which we would be required to file the same with the Commission pursuant to its rules and regulations (giving effect to any grace period provided by Rule 12b-25 under the Exchange Act), all financial information to the extent required of us to be contained in our filings on Form 20-F and, with respect to the annual consolidated financial statements only, a report thereon by our independent auditors. We shall not be required to file any report or other information with the Commission if the Commission does not permit such filing, although such reports will be required to be furnished to the Trustee. Documents filed by us with the Commission via the EDGAR system will be deemed to have been furnished to the Trustee and the holders of the Notes as of the time such documents are filed via EDGAR, *provided, however*, that the Trustee shall have no obligation whatsoever to determine whether or not such information, documents or reports have been filed pursuant to EDGAR.

## **Modification or Waiver**

There are three types of changes we can make to the Indenture and the Notes:

### ***Changes Not Requiring Approval***

There are changes that we and the Trustee can make to the Notes without the specific approval of the holders of the Notes. This type is limited to clarifications and certain other changes that would not adversely affect holders of the Notes in any material respect and include changes:

- to evidence the succession of another corporation, and the assumption by the successor corporation of our covenants, agreements and obligations under the Indenture and the Notes;
- to add to our covenants such new covenants, restrictions, conditions or provisions for the protection of the holders of the Notes, and to make the occurrence, or the occurrence and continuance, of a default in any of such additional covenants, restrictions, conditions or provisions an Event of Default;
- to modify, eliminate or add to any of the provisions of the Indenture to such extent as necessary to effect the qualification of the Indenture under the Trust Indenture Act, and to add to the Indenture such other provisions as may be expressly permitted by the Trust Indenture Act, excluding however, the provisions referred to in Section 316(a)(2) of the Trust Indenture Act;
- to cure any ambiguity or to correct or supplement any provision contained in the Indenture or in any supplemental Indenture which may be defective or inconsistent with other provisions;
- to secure the Notes;
- to evidence and provide for the acceptance and appointment of a successor trustee and to add or change any provisions of the Indenture as necessary to provide for or facilitate the administration of the trust by more than one trustee; and
- to make provisions in regard to matters or questions arising under the Indenture, so long such other provisions to do not materially affect the interest of any other holder of the Notes.

### ***Changes Requiring Approval of Each Holder***

We cannot make certain changes to the Notes without the specific approval of each holder of the Notes. The following is a list of those types of changes:

- changing the stated maturity of the principal of, or any installment of interest on, any Note;
  - reducing the principal amount or rate of interest of any Note;
  - changing the place of payment where any Note or any interest is payable;
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- impairing the right to institute suit for the enforcement of any payment on or after the date on which it is due and payable;
- reducing the percentage in principal amount of holders of the Notes whose consent is needed to modify or amend the Indenture; and
- reducing the percentage in principal amount of holders of the Notes whose consent is needed to waive compliance with certain provisions of the Indenture or to waive certain defaults.

### ***Changes Requiring Majority Approval***

Any other change to the Indenture and the Notes would require the following approval:

- if the change only affects the Notes, it must be approved by holders of a majority in aggregate principal amount of the outstanding Notes; and
- if the change affects more than one series of debt securities issued under the Indenture, it must be approved by the holders of a majority in aggregate principal amount of each of the series of debt securities affected by the change.

Consent from holders to any change to the Indenture or the Notes must be given in writing.

### ***Further Details Concerning Voting***

The amount of Notes deemed to be outstanding for the purpose of voting will include all Notes authenticated and delivered under the Indenture as of the date of determination except:

- Notes cancelled by the trustee or delivered to the trustee for cancellation;
- Notes for which we have deposited with the trustee or paying agent or set aside in trust money for their payment or redemption and, if money has been set aside for the redemption of the Notes, notice of such redemption has been duly given pursuant to the Indenture to the satisfaction of the trustee;
- Notes held by the Company, its subsidiaries or any other entity which is an obligor under the Notes, unless such Notes have been pledged in good faith and the pledgee is not the Company, an affiliate of the Company or an obligor under the Notes;
- Notes for which have undergone full defeasance, as described below; and
- Notes which have been paid or exchanged for other Notes due to such Notes loss, destruction or mutilation, with the exception of any such Notes held by bona fide purchasers who have presented proof to the trustee that such Notes are valid obligations of the Company.

We will generally be entitled to set any day as a record date for the purpose of determining the holders of the Notes that are entitled to vote or take other action under the Indenture, and the trustee will generally be entitled to set any day as a record date for the purpose of determining the holders of the Notes that are entitled to join in the giving or making of any Notice of Default, any declaration of acceleration of maturity of the Notes, any request to institute proceedings or the reversal of such declaration. If we or the trustee set a record date for a vote or other action to be taken by the holders of the Notes, that vote or action can only be taken by persons who are holders of the Notes on the record date and, unless otherwise specified, such vote or action must take place on or prior to the 180<sup>th</sup> day after the record date. We may change the record date at our option, and we will provide written notice to the trustee and to each holder of the Notes of any such change of record date.

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## **Defeasance**

The following defeasance provisions will be applicable to the Notes. “Defeasance” means that, by irrevocably depositing with the trustee an amount of cash denominated in U.S. dollars and/or U.S. government obligations sufficient to pay all principal and interest, if any, on the Notes when due and satisfying any additional conditions noted below, we will be deemed to have been discharged from our obligations under the Notes. In the event of a “covenant defeasance,” upon depositing such funds and satisfying similar conditions discussed below we would be released from certain covenants under the Indenture relating to the Notes. The consequences to the holders of the Notes would be that, while they would no longer benefit from certain covenants under the Indenture, and while the Notes could not be accelerated for any reason, the holders of the Notes nonetheless would be guaranteed to receive the principal and interest owed to them.

### ***Covenant Defeasance***

Under the Indenture, we have the option to take the actions described below and be released from some of the restrictive covenants under the Indenture under which the Notes were issued. This is called “covenant defeasance.” In that event, holders of the Notes would lose the protection of those restrictive covenants but would gain the protection of having money and government securities set aside in trust to repay the Notes. In order to achieve covenant defeasance, the following must occur:

- we must irrevocably deposit or cause to be deposited with the trustee as trust funds for the benefit of the all holders of the Notes cash, U.S. government obligations or a combination of cash and U.S. government obligations sufficient, without reinvestment, in the opinion of a nationally recognized firm of independent public accountants, investment bank or appraisal firm, to generate enough cash to make interest, principal and any other applicable payments on the Notes on their various due dates;
  - we must deliver to the trustee a legal opinion of our counsel stating that under U.S. federal income tax law, we may make the above deposit and covenant defeasance without causing holders to be taxed on the Notes differently than if those actions were not taken;
  - we must deliver to the trustee an officers’ certificate stating that the Notes, if then listed on any securities exchange, will not be delisted as a result of the deposit;
  - no default or Event of Default with respect to the Notes has occurred and is continuing, and no defaults or Events of Defaults related to bankruptcy, insolvency or organization occurs during the 90 days following the deposit;
  - the covenant defeasance must not cause the trustee to have a conflicting interest within the meaning of the Trust Indenture Act;
  - the covenant defeasance must not result in a breach or violation of, or constitute a default under, the Indenture or any other material agreements or instruments to which we are a party;
  - the covenant defeasance must not result in the trust arising from the deposit constituting an investment company within the meaning of the Investment Company Act unless such trust will be registered under the Investment Company Act or exempt from registration thereunder; and
  - we must deliver to the trustee an officers’ certificate and a legal opinion from our counsel stating that all conditions precedent with respect to the covenant defeasance have been complied with.
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## ***Full Defeasance***

If there is a change in U.S. federal income tax law, we can legally release ourselves from all payment and other obligations on the Notes if we take the following actions below:

- we must irrevocably deposit or cause to be deposited with the trustee as trust funds for the benefit of the all holders of the Notes cash, U.S. government obligations or a combination of cash and U.S. government obligations sufficient, without reinvestment, in the opinion of a nationally recognized firm, of independent public accountants, investment bank or appraisal firm, to generate enough cash to make interest, principal and any other applicable payments on the Notes on their various due dates;
- we must deliver to the trustee a legal opinion confirming that there has been a change to the current U.S. federal income tax law or an Internal Revenue Service ruling that allows us to make the above deposit without causing holders to be taxed on the Notes any differently than if we did not make the deposit;
- we must deliver to the trustee an officers' certificate stating that the Notes, if then listed on any securities exchange, will not be delisted as a result of the deposit;
- no default or Event of Default with respect to the Notes has occurred and is continuing and no defaults or Events of Defaults related to bankruptcy, insolvency or organization occurs during the 90 days following the deposit;
- the full defeasance must not cause the trustee to have a conflicting interest within the meaning of the Trust Indenture Act;
- the full defeasance must not result in a breach or violation of, or constitute a default under, the Indenture or any other material agreements or instruments to which we are a party;
- the full defeasance must not result in the trust arising from the deposit constituting an investment company within the meaning of the Investment Company Act unless such trust will be registered under the Investment Company Act or exempt from registration thereunder; and
- we must deliver to the trustee an officers' certificate and a legal opinion from our counsel stating that all conditions precedent with respect to the full defeasance have been complied with.

In the event that the trustee is unable to apply the funds held in trust to the payment of obligations under the Notes by reason of a court order or governmental injunction or prohibition, then those of our obligations discharged under the full defeasance or covenant defeasance will be revived and reinstated as though no deposit of funds had occurred, until such time as the trustee is permitted to apply all funds held in trust under the procedure described above may be applied to the payment of obligations under the Notes. However, if we make any payment of principal or interest on the Notes to the holders, we will have the right to receive such payments from the trust in the place of the holders.

## **Listing**

The Notes are listed on the NYSE under the symbol "GSLD." The Notes trade "flat," meaning that purchasers will not pay and sellers will not receive any accrued and unpaid interest on the Notes that is not included in the trading price.

## **Governing Law**

The Indenture is, and the Notes will be, governed by and construed in accordance with the laws of the State of New York.

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## Global Notes; Book-Entry Issuance

The Notes are and will be issued in the form of a global certificate, or “Global Notes,” registered in the name of DTC. DTC has informed us that its nominee will be Cede & Co. Accordingly, we expect Cede & Co. to be the initial registered holder of the Notes. No person that acquires a beneficial interest in the Notes will be entitled to receive a certificate representing that person’s interest in the Notes except as described herein. Unless and until definitive securities are issued under the limited circumstances described below, all references to actions by holders of the Notes will refer to actions taken by DTC upon instructions from its participants, and all references to payments and notices to holders will refer to payments and notices to DTC or Cede & Co., as the registered holder of these securities.

DTC has informed us that it is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Exchange Act. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments from over 100 countries that DTC’s participants, or “Direct Participants,” deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation, or “DTCC.”

DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly, or “Indirect Participants.” DTC has an S&P rating of AA+. The DTC Rules applicable to its participants are on file with the Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com).

Purchases of the Notes under the DTC system must be made by or through Direct Participants, which will receive a credit for the Notes on DTC’s records. The ownership interest of each actual purchaser of each Note, or the “Beneficial Owner,” is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Notes are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Notes, except in the event that use of the book-entry system for the Notes is discontinued.

To facilitate subsequent transfers, all Notes deposited by Direct Participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of the Notes with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Notes; DTC’s records reflect only the identity of the Direct Participants to whose accounts the Notes are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Redemption notices will be sent to DTC. If less than all of the Notes are being redeemed, DTC’s practice is to determine by lot the amount of the interest of each Direct Participant in the Notes to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the Notes unless authorized by a Direct Participant in accordance with DTC’s Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to us as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.’s consenting or voting rights to those Direct Participants to whose accounts the Notes are credited on the record date (identified in a listing attached to the Omnibus Proxy).

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Redemption proceeds, distributions and interest payments on the Notes will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from us or the applicable trustee or depository on the payment date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with the Notes held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC nor its nominee, the applicable trustee or depository, or us, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions and interest payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of us or the applicable trustee or depository. Disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that we believe to be reliable, but we take no responsibility for the accuracy thereof.

None of the Company, the trustee, any depository, or any agent of any of them will have any responsibility or liability for any aspect of DTC's or any participant's records relating to, or for payments made on account of, beneficial interests in a Global Note, or for maintaining, supervising or reviewing any records relating to such beneficial interests.

#### **Termination of a Global Note**

If a Global Note is terminated for any reason, interest in it will be exchanged for certificates in non-book-entry form as certificated securities. After such exchange, the choice of whether to hold the certificated Notes directly or in street name will be up to the investor. Investors must consult their own banks or brokers to find out how to have their interests in a Global Note transferred on termination to their own names, so that they will be holders of the Notes. See "—Form, Exchange and Transfer of Certificated Registered Securities."

#### **Payment and Paying Agents**

We will pay interest to the person listed in the trustee's records as the owner of the Notes at the close of business on the record date for the applicable interest payment date, even if that person no longer owns the Note on the interest payment date. Because we pay all the interest for an interest period to the holders on the record date, holders buying and selling the Notes must work out between themselves the appropriate purchase price. The most common manner is to adjust the sales price of the Notes to prorate interest fairly between buyer and seller based on their respective ownership periods within the particular interest period.

#### ***Payments on Global Notes***

We will make payments on the Notes so long as they are represented by Global Notes in accordance with the applicable policies of the depository in effect from time to time. Under those policies, we will make payments directly to the depository, or its nominee, and not to any indirect holders who own beneficial interest in the Global Notes. An indirect holder's right to those payments will be governed by the rules and practices of the depository and its participants.

#### ***Payments on Certificated Securities***

In the event the Notes become represented by certificates, we will make payments on the Notes as follows. We will pay interest that is due on an interest payment date by check mailed on the interest payment date to the holder of the Note at his or her address shown on the trustee's records as of the close of business on the record date. We will make all payments of principal by check at the office of the trustee in the contiguous United States and/or at other offices that may be specified in the Indenture or a notice to holders against surrender of the Note.

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### ***Payment When Offices Are Closed***

If any payment is due on the Notes on a day that is not a business day, we will make the payment on the next day that is a business day. Payments made on the next business day in this situation will be treated under the Indenture as if they were made on the original due date. Such payment will not result in a default under the Notes or the Indenture, and no interest will accrue on the payment amount from the original due date to the next day that is a business day.

**Book-entry and other indirect holders should consult their banks or brokers for information on how they will receive payments on the Notes.**

### **Form, Exchange and Transfer of Certificated Registered Securities**

Notes in physical, certificated form will be issued and delivered to each person that DTC identifies as a beneficial owner of the related Notes only if:

- DTC notifies us at any time that it is unwilling or unable to continue as depository for such Global Note or ceases to be a clearing agency registered under the Exchange Act, and we have not appointed a successor depository within 90 days of that notice or becoming aware that DTC is no longer so registered;
- an Event of Default with respect to such Global Note has occurred and is continuing, and DTC requests the issuance of certificated Notes; or
- we determine not to have the Notes represented by a Global Note.

Holders may exchange their certificated securities for Notes of smaller denominations or combined into fewer Notes of larger denominations, as long as the total principal amount is not changed and as long as the denomination is equal to or greater than \$25.00.

Holders may exchange or transfer their certificated securities at the office of the trustee. We have appointed the trustee to act as our agent for registering the Notes in the name of holders transferring Notes. We may at any time designate additional transfer agents or rescind the designation of any transfer agent or approve a change in the office through which any transfer agent acts.

Holders will not be required to pay a service charge for any registration of transfer or exchange of their certificated securities, but they may be required to pay any tax or other governmental charge associated with the registration of transfer or exchange. The transfer or exchange will be made only if our transfer agent is satisfied with the holder's proof of legal ownership.

If we redeem any of the Notes, we may block the transfer or exchange of those Notes selected for redemption during the period beginning 15 days before the day we mail the notice of redemption and ending on the day of that mailing, in order to determine or fix the list of holders to prepare the mailing. We may also refuse to register transfer or exchanges of any certificated Notes selected for redemption, except that we will continue to permit transfers and exchanges of the unredeemed portion of any Note that will be partially redeemed.

### **Governing Law**

The Indenture and the Notes will be governed by and construed in accordance with the laws of the State of New York.

### **About the Trustee**

Wilmington Savings Fund Society, FSB currently serves and is expected to continue to serve as the trustee under the Indenture and will be the principal paying agent and registrar for the Notes. The trustee may resign or be removed with respect to the Notes provided that a successor trustee is appointed to act with respect to the Notes.

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## SECOND SUPPLEMENTAL INDENTURE

(Global Ship Lease 37 LLC)

SUPPLEMENTAL INDENTURE (this "Supplemental Indenture"), dated as of 15 January, 2020, among Global Ship Lease, Inc., a Marshall Islands corporation (the "Issuer"), the guarantors listed on the signature pages hereto (the "Guarantors"), Global Ship Lease 37 LLC (the "Guaranteeing Subsidiary"), a subsidiary of the Issuer and Citibank, N.A., London Branch, as trustee (the "Trustee") and as security agent (the "Security Agent").

WITNESSETH

WHEREAS, the Issuer the Guarantors, the Trustee and the Security Agent have heretofore executed and delivered an indenture dated as of October 31, 2017 (as supplemented by the First Supplemental Indenture, dated as of December 20, 2018, the "Indenture") relating to the Issuer's 9.875% First Priority Secured Notes due 2022 (the "Notes");

WHEREAS, all of the assets and liabilities of Global Ship Lease 3 Limited (the "Predecessor Guarantor"), a Guarantor under the Indenture, have, or will be simultaneously with the execution of this Supplemental Indenture, transferred to the Guaranteeing Subsidiary in connection with a reorganization of the Predecessor Guarantor in an Eligible Jurisdiction (the "Reorganization") in accordance with the terms and conditions of the Indenture;

WHEREAS, in connection with the Reorganization, the Predecessor Guarantor will be automatically and unconditionally released and discharged from all of its obligations under the Indenture, the Notes, and the Guarantees, as the case may be, pursuant to the terms of the Indenture and as contemplated by that certain Resignation and Release Deed, dated 15 January 2020, and simultaneously therewith, the Guaranteeing Subsidiary shall succeed to, and be substituted for, the Predecessor Guarantor (so that from and after the date of the Reorganization, the provisions of the Indenture referring to the Predecessor Guarantor shall refer instead to the Guaranteeing Subsidiary), and in furtherance thereof, the Guaranteeing Subsidiary is executing and delivering to the Trustee this Supplemental Indenture pursuant to which the Guaranteeing Subsidiary will unconditionally guarantee all of the Issuer's obligations under the Notes and the Indenture on the terms and conditions set forth herein; and

WHEREAS, pursuant to Section 9.01 of the Indenture, the Issuer, the Guarantors, the Trustee and the Security Agent are authorized to execute and deliver this Supplemental Indenture to the Indenture.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Guaranteeing Subsidiary and the Trustee mutually covenant and agree for the equal and ratable benefit of the Holders as follows:

1. CAPITALIZED TERMS. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.

2. AGREEMENT TO GUARANTEE. The Guaranteeing Subsidiary hereby agrees to provide an unconditional Guarantee, on and subject to the terms, conditions and limitations set forth in the Indenture, including, but not limited, to Article Ten thereof.

3. RATIFICATION OF INDENTURE; SUPPLEMENTAL INDENTURES PART OF INDENTURE. Except as expressly amended hereby, the Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder of Notes heretofore or hereafter authenticated and delivered shall be bound hereby.

4. NEW YORK LAW TO GOVERN. THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT GIVING EFFECT TO CONFLICTS OF LAW PRINCIPLES TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

5. COUNTERPARTS. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

6. EFFECT OF HEADINGS. The Section headings herein are for convenience only and shall not affect the construction hereof.

7. THE TRUSTEE AND THE SECURITY AGENT. Neither the Trustee nor the Security Agent shall be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Guaranteeing Subsidiary and the Issuer.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed and attested, all as of the date first above written.

Dated: 15 January, 2020

GLOBAL SHIP LEASE 37 LLC

By: /s/ Ian Webber

Name: Ian Webber

Title: Attorney-in-Fact

By: /s/ Thomas Lister

Name: Thomas Lister

Title: Attorney-in-Fact

GLOBAL SHIP LEASE, INC.

By: /s/ Ian Webber

Name: Ian Webber

Title: Attorney-in-Fact

By: /s/ Thomas Lister

Name: Thomas Lister

Title: Attorney-in-Fact

GLOBAL SHIP LEASE SERVICES LIMITED  
GLOBAL SHIP LEASE 3 LIMITED  
GLOBAL SHIP LEASE 4 LIMITED  
GLOBAL SHIP LEASE 5 LIMITED  
GLOBAL SHIP LEASE 6 LIMITED  
GLOBAL SHIP LEASE 7 LIMITED  
GLOBAL SHIP LEASE 8 LIMITED  
GLOBAL SHIP LEASE 9 LIMITED  
GLOBAL SHIP LEASE 12 LIMITED  
GLOBAL SHIP LEASE 13 LIMITED  
GLOBAL SHIP LEASE 14 LIMITED  
GLOBAL SHIP LEASE 15 LIMITED  
GLOBAL SHIP LEASE 16 LIMITED  
GLOBAL SHIP LEASE 20 LIMITED  
GLOBAL SHIP LEASE 21 LIMITED  
GLOBAL SHIP LEASE 22 LIMITED  
GLOBAL SHIP LEASE 23 LIMITED  
GSL ALCAZAR INC.  
GLOBAL SHIP LEASE 38 LLC  
as Guarantors

By: /s/ Ian Webber

\_\_\_\_\_  
Name: Ian Webber

Title: Attorney-in-Fact

By: /s/ Thomas Lister

\_\_\_\_\_  
Name: Thomas Lister

Title: Attorney-in-Fact

CITIBANK, N.A., LONDON BRANCH as  
Trustee

By: /s/ Cristina Volc  
Authorized Signatory  
Vice President

CITIBANK, N.A., LONDON BRANCH, as  
Security Agent

By: /s/ Cristina Volc  
Authorized Signatory  
Vice President

SECOND SUPPLEMENTAL INDENTURE

(Global Ship Lease 39 LLC)

SUPPLEMENTAL INDENTURE (this "Supplemental Indenture"), dated as of 17 February, 2020, among Global Ship Lease, Inc., a Marshall Islands corporation (the "Issuer"), the guarantors listed on the signature pages hereto (the "Guarantors"), Global Ship Lease 39 LLC (the "Guaranteeing Subsidiary"), a subsidiary of the Issuer and Citibank, N.A., London Branch, as trustee (the "Trustee") and as security agent (the "Security Agent").

WITNESSETH

WHEREAS, the Issuer the Guarantors, the Trustee and the Security Agent have heretofore executed and delivered an indenture dated as of October 31, 2017 (as supplemented by the First Supplemental Indenture, dated as of December 20, 2018, the "Indenture") relating to the Issuer's 9.875% First Priority Secured Notes due 2022 (the "Notes");

WHEREAS, all of the assets and liabilities of Global Ship Lease 4 Limited (the "Predecessor Guarantor"), a Guarantor under the Indenture, have, or will be simultaneously with the execution of this Supplemental Indenture, transferred to the Guaranteeing Subsidiary in connection with a reorganization of the Predecessor Guarantor in an Eligible Jurisdiction (the "Reorganization") in accordance with the terms and conditions of the Indenture;

WHEREAS, in connection with the Reorganization, the Predecessor Guarantor will be automatically and unconditionally released and discharged from all of its obligations under the Indenture, the Notes, and the Guarantees, as the case may be, pursuant to the terms of the Indenture and as contemplated by that certain Resignation and Release Deed, dated 17 February 2020, and simultaneously therewith, the Guaranteeing Subsidiary shall succeed to, and be substituted for, the Predecessor Guarantor (so that from and after the date of the Reorganization, the provisions of the Indenture referring to the Predecessor Guarantor shall refer instead to the Guaranteeing Subsidiary), and in furtherance thereof, the Guaranteeing Subsidiary is executing and delivering to the Trustee this Supplemental Indenture pursuant to which the Guaranteeing Subsidiary will unconditionally guarantee all of the Issuer's obligations under the Notes and the Indenture on the terms and conditions set forth herein; and

WHEREAS, pursuant to Section 9.01 of the Indenture, the Issuer, the Guarantors, the Trustee and the Security Agent are authorized to execute and deliver this Supplemental Indenture to the Indenture.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Guaranteeing Subsidiary and the Trustee mutually covenant and agree for the equal and ratable benefit of the Holders as follows:

1. CAPITALIZED TERMS. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.

2. AGREEMENT TO GUARANTEE. The Guaranteeing Subsidiary hereby agrees to provide an unconditional Guarantee, on and subject to the terms, conditions and limitations set forth in the Indenture, including, but not limited, to Article Ten thereof.

3. RATIFICATION OF INDENTURE; SUPPLEMENTAL INDENTURES PART OF INDENTURE. Except as expressly amended hereby, the Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder of Notes heretofore or hereafter authenticated and delivered shall be bound hereby.

4. NEW YORK LAW TO GOVERN. THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT GIVING EFFECT TO CONFLICTS OF LAW PRINCIPLES TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

5. COUNTERPARTS. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

6. EFFECT OF HEADINGS. The Section headings herein are for convenience only and shall not affect the construction hereof.

7. THE TRUSTEE AND THE SECURITY AGENT. Neither the Trustee nor the Security Agent shall be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Guaranteeing Subsidiary and the Issuer.



IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed and attested, all as of the date first above written.

Dated: 17 February, 2020

GLOBAL SHIP LEASE 39 LLC

By: /s/ Ian Webber

\_\_\_\_\_  
Name: Ian Webber

Title: Attorney-in-Fact

By: /s/ Thomas Lister

\_\_\_\_\_  
Name: Thomas Lister

Title: Attorney-in-Fact

GLOBAL SHIP LEASE, INC.

By: /s/ Ian Webber

\_\_\_\_\_  
Name: Ian Webber

Title: Attorney-in-Fact

By: /s/ Thomas Lister

\_\_\_\_\_  
Name: Thomas Lister

Title: Attorney-in-Fact

GLOBAL SHIP LEASE SERVICES LIMITED  
GLOBAL SHIP LEASE 5 LIMITED  
GLOBAL SHIP LEASE 6 LIMITED  
GLOBAL SHIP LEASE 7 LIMITED  
GLOBAL SHIP LEASE 8 LIMITED  
GLOBAL SHIP LEASE 9 LIMITED  
GLOBAL SHIP LEASE 10 LIMITED  
GLOBAL SHIP LEASE 12 LIMITED  
GLOBAL SHIP LEASE 13 LIMITED  
GLOBAL SHIP LEASE 14 LIMITED  
GLOBAL SHIP LEASE 15 LIMITED  
GLOBAL SHIP LEASE 16 LIMITED  
GLOBAL SHIP LEASE 20 LIMITED  
GLOBAL SHIP LEASE 21 LIMITED  
GLOBAL SHIP LEASE 22 LIMITED  
GLOBAL SHIP LEASE 23 LIMITED  
GSL ALCAZAR INC.  
GLOBAL SHIP LEASE 37 LLC  
as Guarantors

By: /s/ Ian Webber

\_\_\_\_\_  
Name: Ian Webber

Title: Authorised Signatory

By: /s/ Thomas Lister

\_\_\_\_\_  
Name: Thomas Lister

Title: Authorised Signatory

CITIBANK, N.A., LONDON BRANCH as  
Trustee

By: /s/ Cristina Volc  
Authorized Signatory  
Vice President

CITIBANK, N.A., LONDON BRANCH, as  
Security Agent

By: /s/ Cristina Volc  
Authorized Signatory  
Vice President

SECOND SUPPLEMENTAL INDENTURE

(Global Ship Lease 38 LLC)

SUPPLEMENTAL INDENTURE (this "Supplemental Indenture"), dated as of 26 February, 2020, among Global Ship Lease, Inc., a Marshall Islands corporation (the "Issuer"), the guarantors listed on the signature pages hereto (the "Guarantors"), Global Ship Lease 38 LLC (the "Guaranteeing Subsidiary"), a subsidiary of the Issuer and Citibank, N.A., London Branch, as trustee (the "Trustee") and as security agent (the "Security Agent").

WITNESSETH

WHEREAS, the Issuer the Guarantors, the Trustee and the Security Agent have heretofore executed and delivered an indenture dated as of October 31, 2017 (as supplemented by the First Supplemental Indenture, dated as of December 20, 2018, the "Indenture") relating to the Issuer's 9.875% First Priority Secured Notes due 2022 (the "Notes");

WHEREAS, all of the assets and liabilities of Global Ship Lease 10 Limited (the "Predecessor Guarantor"), a Guarantor under the Indenture, have, or will be simultaneously with the execution of this Supplemental Indenture, transferred to the Guaranteeing Subsidiary in connection with a reorganization of the Predecessor Guarantor in an Eligible Jurisdiction (the "Reorganization") in accordance with the terms and conditions of the Indenture;

WHEREAS, in connection with the Reorganization, the Predecessor Guarantor will be automatically and unconditionally released and discharged from all of its obligations under the Indenture, the Notes, and the Guarantees, as the case may be, pursuant to the terms of the Indenture and as contemplated by that certain Resignation and Release Deed, dated 26 February 2020, and simultaneously therewith, the Guaranteeing Subsidiary shall succeed to, and be substituted for, the Predecessor Guarantor (so that from and after the date of the Reorganization, the provisions of the Indenture referring to the Predecessor Guarantor shall refer instead to the Guaranteeing Subsidiary), and in furtherance thereof, the Guaranteeing Subsidiary is executing and delivering to the Trustee this Supplemental Indenture pursuant to which the Guaranteeing Subsidiary will unconditionally guarantee all of the Issuer's obligations under the Notes and the Indenture on the terms and conditions set forth herein; and

WHEREAS, pursuant to Section 9.01 of the Indenture, the Issuer, the Guarantors, the Trustee and the Security Agent are authorized to execute and deliver this Supplemental Indenture to the Indenture.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Guaranteeing Subsidiary and the Trustee mutually covenant and agree for the equal and ratable benefit of the Holders as follows:

1. CAPITALIZED TERMS. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.

2. AGREEMENT TO GUARANTEE. The Guaranteeing Subsidiary hereby agrees to provide an unconditional Guarantee, on and subject to the terms, conditions and limitations set forth in the Indenture, including, but not limited, to Article Ten thereof.

3. RATIFICATION OF INDENTURE; SUPPLEMENTAL INDENTURES PART OF INDENTURE. Except as expressly amended hereby, the Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder of Notes heretofore or hereafter authenticated and delivered shall be bound hereby.

4. NEW YORK LAW TO GOVERN. THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT GIVING EFFECT TO CONFLICTS OF LAW PRINCIPLES TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

5. COUNTERPARTS. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

6. EFFECT OF HEADINGS. The Section headings herein are for convenience only and shall not affect the construction hereof.

7. THE TRUSTEE AND THE SECURITY AGENT. Neither the Trustee nor the Security Agent shall be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Guaranteeing Subsidiary and the Issuer.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed and attested, all as of the date first above written.

Dated: 26 February, 2020

GLOBAL SHIP LEASE 38 LLC

By: /s/ Ian Webber

Name: Ian Webber

Title: Attorney-in-Fact

By: /s/ Thomas Lister

Name: Thomas Lister

Title: Attorney-in-Fact

GLOBAL SHIP LEASE, INC.

By: /s/ Ian Webber

Name: Ian Webber

Title: Attorney-in-Fact

By: /s/ Thomas Lister

Name: Thomas Lister

Title: Attorney-in-Fact

GLOBAL SHIP LEASE SERVICES LIMITED  
GLOBAL SHIP LEASE 5 LIMITED  
GLOBAL SHIP LEASE 6 LIMITED  
GLOBAL SHIP LEASE 7 LIMITED  
GLOBAL SHIP LEASE 8 LIMITED  
GLOBAL SHIP LEASE 9 LIMITED  
GLOBAL SHIP LEASE 12 LIMITED  
GLOBAL SHIP LEASE 13 LIMITED  
GLOBAL SHIP LEASE 14 LIMITED  
GLOBAL SHIP LEASE 15 LIMITED  
GLOBAL SHIP LEASE 16 LIMITED  
GLOBAL SHIP LEASE 20 LIMITED  
GLOBAL SHIP LEASE 21 LIMITED  
GLOBAL SHIP LEASE 22 LIMITED  
GLOBAL SHIP LEASE 23 LIMITED  
GLOBAL SHIP LEASE 37 LLC  
GLOBAL SHIP LEASE 39 LLC  
GSL ALCAZAR INC.  
as Guarantors

By: /s/ Ian Webber

\_\_\_\_\_  
Name: Ian Webber

Title: Authorised Signatory

By: /s/ Thomas Lister

\_\_\_\_\_  
Name: Thomas Lister

Title: Authorised Signatory

CITIBANK, N.A., LONDON BRANCH as  
Trustee

By: /s/ Jillian Hamblin  
Authorized Signatory  
Director

CITIBANK, N.A., LONDON BRANCH, as  
Security Agent

By: /s/ Jillian Hamblin  
Authorized Signatory  
Director



SECOND SUPPLEMENTAL INDENTURE

(Global Ship Lease 44 LLC)

SUPPLEMENTAL INDENTURE (this "Supplemental Indenture"), dated as of 16 March, 2020, among Global Ship Lease, Inc., a Marshall Islands corporation (the "Issuer"), the guarantors listed on the signature pages hereto (the "Guarantors"), Global Ship Lease 44 LLC (the "Guaranteeing Subsidiary"), a subsidiary of the Issuer and Citibank, N.A., London Branch, as trustee (the "Trustee") and as security agent (the "Security Agent").

WITNESSETH

WHEREAS, the Issuer the Guarantors, the Trustee and the Security Agent have heretofore executed and delivered an indenture dated as of October 31, 2017 (as supplemented by the First Supplemental Indenture, dated as of December 20, 2018, the "Indenture") relating to the Issuer's 9.875% First Priority Secured Notes due 2022 (the "Notes");

WHEREAS, all of the assets and liabilities of Global Ship Lease 8 Limited (the "Predecessor Guarantor"), a Guarantor under the Indenture, have, or will be simultaneously with the execution of this Supplemental Indenture, transferred to the Guaranteeing Subsidiary in connection with a reorganization of the Predecessor Guarantor in an Eligible Jurisdiction (the "Reorganization") in accordance with the terms and conditions of the Indenture;

WHEREAS, in connection with the Reorganization, the Predecessor Guarantor will be automatically and unconditionally released and discharged from all of its obligations under the Indenture, the Notes, and the Guarantees, as the case may be, pursuant to the terms of the Indenture and as contemplated by that certain Resignation and Release Deed, dated 16 March 2020, and simultaneously therewith, the Guaranteeing Subsidiary shall succeed to, and be substituted for, the Predecessor Guarantor (so that from and after the date of the Reorganization, the provisions of the Indenture referring to the Predecessor Guarantor shall refer instead to the Guaranteeing Subsidiary), and in furtherance thereof, the Guaranteeing Subsidiary is executing and delivering to the Trustee this Supplemental Indenture pursuant to which the Guaranteeing Subsidiary will unconditionally guarantee all of the Issuer's obligations under the Notes and the Indenture on the terms and conditions set forth herein; and

WHEREAS, pursuant to Section 9.01 of the Indenture, the Issuer, the Guarantors, the Trustee and the Security Agent are authorized to execute and deliver this Supplemental Indenture to the Indenture.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Guaranteeing Subsidiary and the Trustee mutually covenant and agree for the equal and ratable benefit of the Holders as follows:

1. CAPITALIZED TERMS. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.

2. AGREEMENT TO GUARANTEE. The Guaranteeing Subsidiary hereby agrees to provide an unconditional Guarantee, on and subject to the terms, conditions and limitations set forth in the Indenture, including, but not limited, to Article Ten thereof.

3. RATIFICATION OF INDENTURE; SUPPLEMENTAL INDENTURES PART OF INDENTURE. Except as expressly amended hereby, the Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder of Notes heretofore or hereafter authenticated and delivered shall be bound hereby.

4. NEW YORK LAW TO GOVERN. THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT GIVING EFFECT TO CONFLICTS OF LAW PRINCIPLES TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

5. COUNTERPARTS. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

6. EFFECT OF HEADINGS. The Section headings herein are for convenience only and shall not affect the construction hereof.

7. THE TRUSTEE AND THE SECURITY AGENT. Neither the Trustee nor the Security Agent shall be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Guaranteeing Subsidiary and the Issuer.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed and attested, all as of the date first above written.

Dated: 16 March, 2020

GLOBAL SHIP LEASE 44 LLC

By: /s/ Ian Webber

\_\_\_\_\_  
Name: Ian Webber

Title: Attorney-in-Fact

By: /s/ Thomas Lister

\_\_\_\_\_  
Name: Thomas Lister

Title: Attorney-in-Fact

GLOBAL SHIP LEASE, INC.

By: /s/ Ian Webber

\_\_\_\_\_  
Name: Ian Webber

Title: Attorney-in-Fact

By: /s/ Thomas Lister

\_\_\_\_\_  
Name: Thomas Lister

Title: Attorney-in-Fact

GLOBAL SHIP LEASE SERVICES LIMITED  
GLOBAL SHIP LEASE 5 LIMITED  
GLOBAL SHIP LEASE 6 LIMITED  
GLOBAL SHIP LEASE 7 LIMITED  
GLOBAL SHIP LEASE 9 LIMITED  
GLOBAL SHIP LEASE 12 LIMITED  
GLOBAL SHIP LEASE 13 LIMITED  
GLOBAL SHIP LEASE 14 LIMITED  
GLOBAL SHIP LEASE 15 LIMITED  
GLOBAL SHIP LEASE 16 LIMITED  
GLOBAL SHIP LEASE 20 LIMITED  
GLOBAL SHIP LEASE 21 LIMITED  
GLOBAL SHIP LEASE 22 LIMITED  
GLOBAL SHIP LEASE 23 LIMITED  
GSL ALCAZAR INC.  
GLOBAL SHIP LEASE 37 LLC  
GLOBAL SHIP LEASE 38 LLC  
GLOBAL SHIP LEASE 39 LLC  
as Guarantors

By: /s/ Ian Webber

\_\_\_\_\_  
Name: Ian Webber

Title: Authorised Signatory

By: /s/ Thomas Lister

\_\_\_\_\_  
Name: Thomas Lister

Title: Authorised Signatory

CITIBANK, N.A., LONDON BRANCH as  
Trustee

By: /s/ Laura Hughes  
Authorized Signatory  
Vice President

CITIBANK, N.A., LONDON BRANCH, as  
Security Agent

By: /s/ Laura Hughes  
Authorized Signatory  
Vice President

SECOND SUPPLEMENTAL INDENTURE

(Global Ship Lease 43 LLC)

SUPPLEMENTAL INDENTURE (this "Supplemental Indenture"), dated as of 20 March, 2020, among Global Ship Lease, Inc., a Marshall Islands corporation (the "Issuer"), the guarantors listed on the signature pages hereto (the "Guarantors"), Global Ship Lease 43 LLC (the "Guaranteeing Subsidiary"), a subsidiary of the Issuer and Citibank, N.A., London Branch, as trustee (the "Trustee") and as security agent (the "Security Agent").

WITNESSETH

WHEREAS, the Issuer the Guarantors, the Trustee and the Security Agent have heretofore executed and delivered an indenture dated as of October 31, 2017 (as supplemented by the First Supplemental Indenture, dated as of December 20, 2018, the "Indenture") relating to the Issuer's 9.875% First Priority Secured Notes due 2022 (the "Notes");

WHEREAS, all of the assets and liabilities of Global Ship Lease 22 Limited (the "Predecessor Guarantor"), a Guarantor under the Indenture, have, or will be simultaneously with the execution of this Supplemental Indenture, transferred to the Guaranteeing Subsidiary in connection with a reorganization of the Predecessor Guarantor in an Eligible Jurisdiction (the "Reorganization") in accordance with the terms and conditions of the Indenture;

WHEREAS, in connection with the Reorganization, the Predecessor Guarantor will be automatically and unconditionally released and discharged from all of its obligations under the Indenture, the Notes, and the Guarantees, as the case may be, pursuant to the terms of the Indenture and as contemplated by that certain Resignation and Release Deed, dated 20 March 2020, and simultaneously therewith, the Guaranteeing Subsidiary shall succeed to, and be substituted for, the Predecessor Guarantor (so that from and after the date of the Reorganization, the provisions of the Indenture referring to the Predecessor Guarantor shall refer instead to the Guaranteeing Subsidiary), and in furtherance thereof, the Guaranteeing Subsidiary is executing and delivering to the Trustee this Supplemental Indenture pursuant to which the Guaranteeing Subsidiary will unconditionally guarantee all of the Issuer's obligations under the Notes and the Indenture on the terms and conditions set forth herein; and

WHEREAS, pursuant to Section 9.01 of the Indenture, the Issuer, the Guarantors, the Trustee and the Security Agent are authorized to execute and deliver this Supplemental Indenture to the Indenture.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Guaranteeing Subsidiary and the Trustee mutually covenant and agree for the equal and ratable benefit of the Holders as follows:

1. CAPITALIZED TERMS. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.

2. AGREEMENT TO GUARANTEE. The Guaranteeing Subsidiary hereby agrees to provide an unconditional Guarantee, on and subject to the terms, conditions and limitations set forth in the Indenture, including, but not limited, to Article Ten thereof.

3. RATIFICATION OF INDENTURE; SUPPLEMENTAL INDENTURES PART OF INDENTURE. Except as expressly amended hereby, the Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder of Notes heretofore or hereafter authenticated and delivered shall be bound hereby.

4. NEW YORK LAW TO GOVERN. THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT GIVING EFFECT TO CONFLICTS OF LAW PRINCIPLES TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

5. COUNTERPARTS. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

6. EFFECT OF HEADINGS. The Section headings herein are for convenience only and shall not affect the construction hereof.

7. THE TRUSTEE AND THE SECURITY AGENT. Neither the Trustee nor the Security Agent shall be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Guaranteeing Subsidiary and the Issuer.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed and attested, all as of the date first above written.

Dated: 20 March, 2020

GLOBAL SHIP LEASE 43 LLC

By: /s/ Ian Webber

\_\_\_\_\_  
Name: Ian Webber

Title: Attorney-in-Fact

By: /s/ Thomas Lister

\_\_\_\_\_  
Name: Thomas Lister

Title: Attorney-in-Fact

GLOBAL SHIP LEASE, INC.

By: /s/ Ian Webber

\_\_\_\_\_  
Name: Ian Webber

Title: Attorney-in-Fact

By: /s/ Thomas Lister

\_\_\_\_\_  
Name: Thomas Lister

Title: Attorney-in-Fact



GLOBAL SHIP LEASE SERVICES LIMITED  
GLOBAL SHIP LEASE 5 LIMITED  
GLOBAL SHIP LEASE 6 LIMITED  
GLOBAL SHIP LEASE 7 LIMITED  
GLOBAL SHIP LEASE 9 LIMITED  
GLOBAL SHIP LEASE 12 LIMITED  
GLOBAL SHIP LEASE 13 LIMITED  
GLOBAL SHIP LEASE 14 LIMITED  
GLOBAL SHIP LEASE 15 LIMITED  
GLOBAL SHIP LEASE 16 LIMITED  
GLOBAL SHIP LEASE 20 LIMITED  
GLOBAL SHIP LEASE 21 LIMITED  
GLOBAL SHIP LEASE 23 LIMITED  
GSL ALCAZAR INC.  
GLOBAL SHIP LEASE 37 LLC  
GLOBAL SHIP LEASE 38 LLC  
GLOBAL SHIP LEASE 39 LLC  
GLOBAL SHIP LEASE 44 LLC  
as Guarantors

By: /s/ Ian Webber

\_\_\_\_\_  
Name: Ian Webber

Title: Authorised Signatory

By: /s/ Thomas Lister

\_\_\_\_\_  
Name: Thomas Lister

Title: Authorised Signatory

CITIBANK, N.A., LONDON BRANCH as  
Trustee

By: /s/ Viola Japaul  
Authorized Signatory  
Director

CITIBANK, N.A., LONDON BRANCH, as  
Security Agent

By: /s/ Viola Japaul  
Authorized Signatory  
Director

Dated 10 December 2019

**GLOBAL SHIP LEASE 30 LLC  
GLOBAL SHIP LEASE 31 LLC  
GLOBAL SHIP LEASE 32 LLC**  
as Original Borrowers

and

**GLOBAL SHIP LEASE 33 LLC  
and  
GLOBAL SHIP LEASE 34 LLC**  
as Additional Borrowers

and

**GLOBAL SHIP LEASE, INC.**  
as Parent Guarantor

and

**HELLENIC BANK PUBLIC COMPANY LIMITED**  
as Facility Agent

and

**HELLENIC BANK PUBLIC COMPANY LIMITED**  
as Security Agent

**DEED OF ACCESSION, AMENDMENT AND RESTATEMENT**  
relating to a facility agreement dated 23 May 2019

**WATSON FARLEY  
&  
WILLIAMS**

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THIS DEED is made on 10 December 2019

**BETWEEN**

- (1) **GLOBAL SHIP LEASE 30 LLC**, a limited liability company formed in the Marshall Islands with registered number 964614 whose registered address is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, MH96960, the Marshall Islands and registered as a Foreign Maritime Entity in the Republic of Liberia, as an original borrower ("**Original Borrower A**")
- (2) **GLOBAL SHIP LEASE 31 LLC**, a limited liability company formed in the Marshall Islands with registered number 964615 whose registered address is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, MH96960, the Marshall Islands and registered as a Foreign Maritime Entity in the Republic of Liberia, as an original borrower ("**Original Borrower B**")
- (3) **GLOBAL SHIP LEASE 32 LLC**, a limited liability company formed in the Marshall Islands with registered number 964616 whose registered address is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, MH96960, the Marshall Islands and registered as a Foreign Maritime Entity in the Republic of Liberia, as an original borrower ("**Original Borrower C**")
- (4) **GLOBAL SHIP LEASE 33 LLC**, a limited liability company formed in the Republic of Liberia with registration number -960149 whose registered address is at 80 Broad Street, Monrovia, Liberia as an additional borrower ("**Additional Borrower A**")
- (5) **GLOBAL SHIP LEASE 34 LLC**, a limited liability company formed in the Republic of Liberia with registration number -960150 whose registered address is at 80 Broad Street, Monrovia, Liberia as an additional borrower ("**Additional Borrower B**")
- (6) **GLOBAL SHIP LEASE, INC.**, a corporation incorporated in the Marshall Islands with registered number 28891 whose registered address is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, MH96960, the Marshall Islands as guarantor (the "**Parent Guarantor**")
- (7) **HELLENIC BANK PUBLIC COMPANY LIMITED** as arranger, acting in such capacity through its office at Corner Limassol Avenue & 200 Athalassa Avenue, 2025 Strovolos, Nicosia, Cyprus (the "**Arranger**")
- (8) **THE FINANCIAL INSTITUTIONS** listed in Part B of Schedule 1 (*The Parties*) of the Facility Agreement as lenders (the "**Lenders**")
- (9) **HELLENIC BANK PUBLIC COMPANY LIMITED** as agent of the other Finance Parties, acting in such capacity through its office at Corner Limassol Avenue & 200 Athalassa Avenue, 2025 Strovolos, Nicosia, Cyprus (the "**Facility Agent**")
- (10) **HELLENIC BANK PUBLIC COMPANY LIMITED** as security agent for the Secured Parties, acting in such capacity through its office at Corner Limassol Avenue & 200 Athalassa Avenue, 2025 Strovolos, Nicosia, Cyprus (the "**Security Agent**")

**BACKGROUND**

- (A) By a facility agreement dated 23 May 2019 (the "**Facility Agreement**") and made between (i) the Original Borrowers as joint and several borrowers, (ii) the Parent Guarantor, (iii) the Lenders, (iv) the Facility Agent and (v) the Security Agent, the Lenders agreed to make available to the Original Borrowers, on a joint and several basis, a senior secured term loan facility of (originally) up to \$37,000,000, of which the principal amount outstanding on the date of this Deed is equal to \$35,700,000.
-

- (B) The Original Borrowers and the Parent Guarantor have requested (the "**Request**") that the Finance Parties consent to, inter alia, the following:
- (i) the Additional Borrowers acceding to the Facility Agreement and to certain of the other Finance Documents and assuming jointly and severally with the Original Borrowers, the Original Borrowers' obligations thereunder (the "**Additional Borrowers' Accession and Assumption**");
  - (ii) the increase of the Facility by an amount equal to \$22,000,000 (from \$37,000,000 to \$59,000,000) to be made available to the Borrowers in two additional tranches as follows:
    - (A) a first additional tranche ("**New Tranche A**") in an amount of up to \$11,000,000 to finance part of the acquisition cost of the container type vessel (having IMO No.9280653) named m.v. "VERDI" (tbr "VINIA") ("**New Ship A**") to be registered in the ownership of Additional Borrower A; and
    - (B) a second additional tranche ("**New Tranche B**" and together with New Tranche A, the "**New Tranches**") in an amount of up to \$11,000,000 to finance part of the acquisition cost of the container type vessel (having IMO No. 9280641) named m.v. "STRAUSS" (tbr "GSL CHRISTEL ELISABETH") ("**New Ship B**") to be registered in the ownership of Additional Borrower B.
- (C) This Deed sets out the terms and conditions on which the Finance Parties shall agree, with effect on and from the Effective Date, to:
- (i) the Request; and
  - (ii) the consequential amendments to the Facility Agreement and the other Finance Documents in connection with the Request (the "**Consequential Amendments**").

**IT IS AGREED** as follows:

## **1 INTERPRETATION**

### **1.1 Defined expressions**

Words and expressions defined in the Facility Agreement and the recitals hereto and not otherwise defined herein shall have the same meanings when used in this Deed unless the context otherwise requires.

### **1.2 Definitions**

In this Deed, unless the contrary intention appears:

"**Additional Borrowers**" means each of Additional Borrower A and Additional Borrower B.

"**Amended and Restated Facility Agreement**" means the Facility Agreement, as amended and restated by this Deed, in the form set out in the Appendix.

"**Borrowers**" means the Additional Borrowers and the Original Borrowers, as borrowers on a joint and several basis under the Facility Agreement.

"**Effective Date**" means the date on which the Facility Agreement acting on the instructions of the Majority Lenders confirms in writing that all the conditions precedent in Clause 3 have been satisfied or waived.

"**Facility Agreement**" means the Facility Agreement referred to in Recital (A), as amended by this Deed and as the same may be further amended, restated and/or supplemented from time to time.

"**GSL Indenture**" means the 9.875% first priority secured notes issued by GSL with a scheduled maturity falling on 15 November 2022 with a current outstanding amount of \$340,000,000.

"**GSL Indenture Letter**" means a letter to be provided to the Facility Agent by the Parent Guarantor, in respect of the GSL Indenture in agreed form.

"**Mortgage Addendum**" means, in relation to an Original Ship, an addendum to the Mortgage over that Original Ship in agreed form.

"**New Ships**" has the meaning given to in Recital (B)

"**New Tranches**" has the meaning given to in Recital (B).

"**Original Borrowers**" means each of Original Borrower A, Original Borrower B and Original Borrower C.

"**Original Ships**" means each of:

- (a) m.v. "GSL ELENI" (ex "MSC NINGBO"), (having IMO No. 9285677) registered in the ownership of Original Borrower A under the Liberian flag;
- (b) m.v. "E.R. SANTA BARBARA" (tbr "GSL KALLIOPI") (having IMO No. 9387633) registered in the ownership of Original Borrower B under the Liberian flag; and
- (c) m.v. "GSL GRANIA" (ex "E.R. MONTECITO") (having IMO No. 9285653) registered in the ownership of Original Borrower C under the Liberian flag.

### **1.3 Application of construction and interpretation provisions of Facility Agreement**

Clauses 1.2 (*Construction*) to 1.5 (*Third Party Rights*) (inclusive) of the Facility Agreement apply, with any necessary modifications, to this Deed.

### **1.4 Designation as a Finance Document**

The Borrowers and the Facility Agent designate this Deed as a Finance Document.

## **2 AGREEMENT OF THE FINANCE PARTIES**

- (a) The Finance Parties agree subject to and upon the terms and conditions set out in Clause 3 of this Deed, to:
  - (i) the Request;
  - (ii) the Consequential Amendments.

- (b) The agreement of the parties to this Deed contained in this Clause 2 (*Agreement of the Finance Parties*) shall have effect on and from the Effective Date.

### **3 CONDITIONS PRECEDENT**

#### **3.1 General**

The agreement of the Finance Parties contained in Clause 2 (*Agreement of the Finance Parties*) is subject to:

- (a) no Default continuing on the date of this Deed and on the Effective Date or resulting from the occurrence of the Effective Date;
- (b) the Repeating Representations to be made by each Borrower pursuant to Clause 4 (*Representations and Warranties*) being true on the date of this Deed and on the Effective Date; and
- (c) the Facility Agent having received all of the documents and other evidence listed in Schedule 1 (*Conditions Precedent*) in form and substance satisfactory to the Lenders in their sole discretion on or before the Effective Date.

#### **3.2 Waiver of conditions precedent**

If the Majority Lenders, at their discretion, permit for the Effective Date to take place before certain of the conditions referred to in Schedule 1 (*Conditions Precedent*) are satisfied, each of the Borrowers and the Parent Guarantor shall ensure that those conditions are satisfied within 5 Business Days after the Effective Date (or such later date as the Facility Agent, acting with the authorisation of the Majority Lenders, may agree in writing with the Borrowers), which however, shall not be taken as a waiver of the Majority Lender's right to require production of all the documents and evidence required referred to in Schedule 1 (*Conditions Precedent*).

### **4 REPRESENTATIONS AND WARRANTIES**

#### **4.1 Representation and warranties of the Additional Borrowers**

The representations and warranties in clause 19 (*Representations*) of the Amended and Restated Facility Agreement are deemed to be made on the Effective Date by the Additional Borrowers with reference to the circumstances then existing.

#### **4.2 Repetition of Amended and Restated Facility Agreement representations and warranties**

Each of the Original Borrowers and the Parent Guarantor represents and warrants to the Finance Parties as at the date of this Deed that the representations and warranties in clause 19 (*Representations*) of the Amended and Restated Facility Agreement are true and not misleading if repeated on the date of this Deed with reference to the circumstances now existing.

#### **4.3 Repetition of Finance Documents representations and warranties**

Each of the Original Borrowers and the Parent Guarantor represents and warrants to the Finance Parties that the representations and warranties in the Finance Documents (other than the Amended and Restated Facility Agreement) to which each of them is a party, as amended and restated by this Deed and updated with appropriate modifications to refer to this Deed



and where appropriate the relevant Mortgage Addendum, remain true and not misleading if repeated on the date of this Deed with reference to the circumstances now existing.

## **5 AMENDMENT AND RESTATEMENT OF FACILITY AGREEMENT**

### **5.1 Amendment and restatement of the Facility Agreement**

- (a) With effect on and from (and subject to the occurrence of) the Effective Date, the Facility Agreement shall be, and shall be deemed by this Deed to be amended and restated in the form of the Amended and Restated Facility Agreement attached hereto as an Appendix; and
- (b) As so amended and restated pursuant to paragraph (a) above, the Facility Agreement shall continue to be binding on each of the Original Borrowers and the Parent Guarantor.

### **5.2 Amendments to Finance Documents**

With effect on and from the Effective Date (and subject to the occurrence of), each of the Finance Documents (other than the Facility Agreement) shall be, and shall be deemed by this Deed to be, amended as follows:

- (a) the definition of, and references throughout each of the Finance Documents to the "Facility Agreement" and any of the other Finance Documents shall be construed as if the same referred to, respectively:
  - (i) the Amended and Restated Facility Agreement; and
  - (ii) the other Finance Documents as amended and supplemented by this Clause 5.2 (*Amendments to Finance Documents*);
- (b) by construing references throughout each of the Finance Documents to "the Borrowers" as if the same referred to the Borrowers (including, for the avoidance of doubt, the Additional Borrowers) as joint and several borrowers, or, where the context so requires, any of them; and
- (c) by construing references throughout each of the Finance Documents to "this Agreement", "this Deed", "hereunder" and other like expressions as if the same referred to those Finance Documents as amended and/or supplemented by this Deed.

### **5.3 Finance Documents to remain in full force and effect**

The Facility Agreement and each of the other Finance Documents shall remain in full force and effect and from the Effective Date:

- (a) in the case of the Facility Agreement as amended and restated pursuant to Clause 5.1 (*Amendment and Restatement of Facility Agreement*);
- (b) in the case of the other Finance Documents as amended pursuant to Clause 5.2 (*Amendments to Finance Documents*); and
- (c) the Facility Agreement and the applicable provisions of this Deed will be read and construed as one document.

## **6 ACCESSION AND ASSUMPTION**

With effect on and from (and subject to the occurrence of) the Effective Date:

- (a) each Additional Borrower agrees that:
  - (i) it will accede to the Facility Agreement as amended and restated by this Deed as a Borrower and it will assume the obligations of the Original Borrowers thereunder; and
  - (ii) it will be bound, on a joint and several basis with the Original Borrowers, by the terms of the Amended and Restated Facility Agreement;
- (b) each Original Borrower:
  - (i) confirms its acceptance of the amendments to the Facility Agreement and the other Finance Documents effected by this Deed;
  - (ii) agrees that it is bound as an Obligor (as defined in the Facility Agreement as amended and restated pursuant to this Deed);
  - (iii) confirms and acknowledges that it is and remains a party to the Facility Agreement and that its respective obligations under the Facility Agreement and the other Finance Documents (as amended and restated by this Deed) remain in full force and effect;
- (c) each Original Borrower further agrees to be jointly and severally liable together with the Additional Borrowers for:
  - (i) the repayment of the New Tranches plus interest accrued thereon in accordance with the Amended and Restated Facility Agreement; and
  - (ii) all other obligations and liabilities under the Amended and Restated Facility Agreement as amended by this Deed;
- (d) the Parent Guarantor:
  - (i) confirms its acceptance of the amendments to the Facility Agreement and the other Finance Documents effected by this Deed;
  - (ii) agrees that it shall be bound by the terms of the Amended and Restated Facility Agreement and the other Finance Documents as amended and restated by this Deed; and
  - (iii) confirms that its guarantee and indemnity:
    - (A) has full force and effect on the terms of the Amended and Restated Facility Agreement; and
    - (B) extends to the obligations of the Borrowers under the Amended and Restated Facility Agreement and the other Finance Documents (as amended and supplemented by this Deed and as may be further amended and supplemented from time to time); and
- (e) the Original Borrowers, the Parent Guarantor and the Finance Parties agree to the accession of the Additional Borrowers to the Facility Agreement as amended, restated and supplemented by this Deed.

## **7 SECURITY**

On the Effective Date, each Original Borrower and the Parent Guarantor confirms that:

- (a) any Security created by it under the Finance Documents to which it is a party extends to the obligations of the Transaction Obligors under the Amended and Restated Facility Agreement and the other Finance Documents (as amended and restated by this Deed and as may be further amended and supplemented from time to time);
- (b) the obligations of the Transaction Obligors arising under the Amended and Restated Facility Agreement and the other Finance Documents (as amended and restated by this Deed and as may be further amended and supplemented from time to time) are included in the Secured Liabilities;
- (c) the Security created pursuant to the Finance Documents continues in full force and effect on the terms of the respective Finance Documents (as amended and supplemented by this Deed and as may be further amended and supplemented from time to time); and
- (d) to the extent that this confirmation creates a new Security, such Security shall be on the terms of the Security Documents in respect of which this confirmation is given.

## **8 FURTHER ASSURANCES**

Clause 22.24 (*further assurance*) of the Facility Agreement applies to this Deed as if it were expressly incorporated in this Deed with any necessary modifications.

## **9 COSTS AND EXPENSES**

The provisions of clause 16 (*costs and expenses*) of the Facility Agreement shall apply to this Deed as if they were expressly incorporated in this Deed with any necessary modifications.

## **10 COMMUNICATIONS**

### **10.1 General**

The provisions of 30.2 (*instructions*), 31.4 (*instructions*), clause 37 (*notices*) of the Amended and Restated Facility Agreement shall apply to this Deed as if they were expressly incorporated in this Deed with any necessary modifications.

## **11 SUPPLEMENTAL**

### **11.1 Counterparts**

This Deed may be executed in any number of counterparts.

### **11.2 Third party rights**

A person who is not a party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Deed.

## **12 LAW AND JURISDICTION**

### **12.1 Governing law**

This Deed and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law.

### **12.2 Incorporation of the Facility Agreement provisions**

The provisions of clauses 47 (*Governing law*) and 48 (*Enforcement*) of the Facility Agreement shall apply to this Deed as if they were expressly incorporated in this Deed with any necessary modifications.

### **12.3 Process agent**

Each of the Borrowers and the Parent Guarantor irrevocably appoint Saville & Co. at its registered office for the time being, presently at One Carey Lane, London EC2V 8AE, England to act as its agent to receive and accept on its behalf any process or other document relating to any proceedings in the English Courts which is connected with this Deed.

**This DEED** has been duly executed by or on behalf of the parties hereto as a Deed and has, on the date stated at the beginning of this Deed, been delivered as a Deed.

## SCHEDULE 1

### CONDITIONS PRECEDENT

#### **1 Transaction Obligors and Additional Borrowers**

- 1.1 True and complete copies of the constitutional documents of each Additional Borrower.
- 1.2 A certificate from an officer of each Obligor, each Approved Manager and each Additional Borrower confirming the names and offices of all their respective directors and officers and the shareholding of each of its shareholders or member, as the case may be, and having attached thereto true and complete copies of their constitutional documents.
- 1.3 Up-to-date certificates of goodstanding in respect of each Obligor, each Approved Manager and each Additional Borrower.
- 1.4 A copy of a resolution of the board of directors or member, as the case may be, of each Obligor, each Approved Manager and each Additional Borrower:
  - (a) approving the terms of, and the transactions contemplated by, this Deed and (as applicable) the Mortgage Addendum to which it is a party and resolving that it execute this Deed and the Mortgage Addendum to which it is a party;
  - (b) authorising a specified person or persons to execute this Deed and (as applicable) the Mortgage Addendum to which it is a party on its behalf; and
  - (c) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, a Utilisation Request) to be signed and/or despatched by it under, or in connection with, the Finance Documents to which it is a party.
- 1.5 An original of the power of attorney of each Obligor, each Approved Manager and each Additional Borrower authorising a specified person or persons to execute this Deed and (as applicable) the Mortgage Addendum to which it is a party.
- 1.6 A specimen of the signature of each person authorised by the resolutions referred to in paragraph 1.4 above.
- 1.7 A resolution signed by the Parent Guarantor as the holder of the issued limited liability company interests in each of the Original Borrowers, approving the terms of, and the transactions contemplated by, this Deed and the Mortgage Addendum (as applicable) to which that Original Borrower is a party.
- 1.8 A resolution signed by the Parent Guarantor as the holder of the issued limited liability company interests in each of the Additional Borrowers, approving the terms of, and the transactions contemplated by, this Deed.
- 1.9 A certificate of each Obligor, each Approved Manager and each Additional Borrower (signed by an officer) confirming that borrowing or guaranteeing, as appropriate, the Total Commitments (as defined in the Amended and Restated Facility Agreement) would not cause any borrowing, guaranteeing or similar limit binding on that Transaction Obligor or Additional Borrower to be exceeded.
- 1.10 A certificate of each Obligor, each Approved Manager and each Additional Borrower that is incorporated outside the UK (signed by an officer) certifying either that (i) it has not delivered

particulars of any UK Establishment to the Registrar of Companies as required under the Overseas Regulations or (ii) it has a UK Establishment and specifying the name and registered number under which it is registered with the Registrar of Companies.

- 1.11 A certificate of an authorised signatory of the relevant Obligor, each Approved Manager and each Additional Borrower certifying that each copy document relating to it specified in this Schedule 1 (*Conditions Precedent*) is correct, complete and in full force and effect as at a date no earlier than the date of this Deed.

## **2 Agreement and Security**

- 2.1 A duly executed original of this Deed signed by all Parties to it and countersigned by each Approved Manager.
- 2.2 A duly executed original of each Mortgage Addendum together with documentary evidence that that Mortgage Addendum has been duly registered as a valid addendum to the Mortgage in respect of the relevant Original Ship in accordance with the laws of the jurisdiction of the relevant Approved Flag.

## **3 Legal opinions**

Legal opinions of the legal advisers to the Facility Agent in the jurisdiction of the Approved Flag of the Ships, the Republic of the Marshall Islands, Liberia, England and such other relevant jurisdictions as the Facility Agent may require.

## **4 Other documents and evidence**

- 4.1 A copy of any other Authorisation or other document, opinion or assurance which the Facility Agent considers to be necessary or desirable in connection with the entry into and performance of the transactions contemplated by this Deed and each Mortgage Addendum or for the validity and enforceability of any Finance Document as amended, restated and/or supplemented by this Deed or by any Mortgage Addendum.
- 4.2 Such evidence as the Facility Agent may require for the Finance Parties to be able to satisfy each of their "know your customer" or similar identification procedures in relation to the transactions contemplated by this Deed.
- 4.3 Evidence that the fees, costs and expenses then due from the Borrowers pursuant to Clause 9 (*Costs and Expenses*) have been paid or will be paid by the Effective Date (or at any such later date the Facility Agent may agree to, at Borrowers' request).
- 4.4 Documentary evidence that the agent for service of process named in Clause 12.3 (*Process agent*) has accepted its appointment.

EXECUTION PAGES

ORIGINAL BORROWERS

**EXECUTED AS A DEED** )  
by Aikaterini Emmanouil ) /s/ Aikaterini Emmanouil  
its attorney-in-fact )  
duly authorised )  
for and on behalf of )  
**GLOBAL SHIP LEASE 30 LLC** )  
in the presence of: )

Witness' signature: ) /s/ Irene Graff  
Witness' name: Irene Graff )  
Witness' address: Watson Farley & Williams  
348 Syngrou Avenue  
176 74 Kallithea  
Athens - Greece

**EXECUTED AS A DEED** )  
by Aikaterini Emmanouil ) /s/ Aikaterini Emmanouil  
its attorney-in-fact )  
duly authorised )  
for and on behalf of )  
**GLOBAL SHIP LEASE 31 LLC** )  
in the presence of: )

Witness' signature: ) /s/ Irene Graff  
Witness' name: Irene Graff )  
Witness' address: Watson Farley & Williams  
348 Syngrou Avenue  
176 74 Kallithea  
Athens - Greece

**EXECUTED AS A DEED** )  
by Aikaterini Emmanouil ) /s/ Aikaterini Emmanouil  
its attorney-in-fact )  
duly authorised )  
for and on behalf of )  
**GLOBAL SHIP LEASE 32 LLC** )  
in the presence of: )

Witness' signature: ) /s/ Irene Graff  
Witness' name: Irene Graff )  
Witness' address: Watson Farley & Williams  
348 Syngrou Avenue  
176 74 Kallithea  
Athens - Greece

**ADDITIONAL BORROWERS**

**EXECUTED AS A DEED** )  
by Aikaterini Emmanouil ) /s/ Aikaterini Emmanouil  
its attorney-in-fact )  
duly authorised )  
for and on behalf of )  
**GLOBAL SHIP LEASE 33 LLC** )

in the presence of: )

Witness' signature: ) /s/ Irene Graff  
Witness' name: Irene Graff )  
Witness' address: Watson Farley & Williams  
348 Syngrou Avenue  
176 74 Kallithea  
Athens - Greece

**EXECUTED AS A DEED** )  
by Aikaterini Emmanouil ) /s/ Aikaterini Emmanouil  
its attorney-in-fact )  
duly authorised )  
for and on behalf of )  
**GLOBAL SHIP LEASE 34 LLC** )

in the presence of: )

Witness' signature: ) /s/ Irene Graff  
Witness' name: Irene Graff )  
Witness' address: Watson Farley & Williams  
348 Syngrou Avenue  
176 74 Kallithea  
Athens - Greece

**PARENT GUARANTOR**

**EXECUTED AS A DEED)** )  
by Aikaterini Emmanouil )  
its attorney-in-fact ) /s/ Aikaterini Emmanouil  
duly authorised )  
for and on behalf of )  
**GLOBAL SHIP LEASE, INC.** )  
in the presence of: )

Witness' signature: ) /s/ Irene Graff  
Witness' name: Irene Graff )  
Witness' address: Watson Farley & Williams  
348 Syngrou Avenue  
176 74 Kallithea  
Athens - Greece



**ARRANGER**

**SIGNED** by Eleni Antonakou ) /s/ Eleni Antonakou  
duly authorised as attorney-in-fact )  
for and on behalf of )  
**HELLENIC BANK PUBLIC COMPANY** )  
**LIMITED**  
in the presence of: )

Witness' signature: ) /s/ Irene Graff  
Witness' name: Irene Graff )  
Witness' address: Watson Farley & Williams  
348 Syngrou Avenue  
176 74 Kallithea  
Athens - Greece

**LENDER**

**SIGNED** by Eleni Antonakou ) /s/ Eleni Antonakou  
duly authorised as attorney-in-fact )  
for and on behalf of )  
**HELLENIC BANK PUBLIC COMPANY LIMITED)**  
in the presence of: )

Witness' signature: ) /s/ Irene Graff  
Witness' name: Irene Graff )  
Witness' address: Watson Farley & Williams  
348 Syngrou Avenue  
176 74 Kallithea  
Athens - Greece

**SECURITY AGENT**

**SIGNED** by Eleni Antonakou ) /s/ Eleni Antonakou  
duly authorised as attorney-in-fact )  
for and on behalf of )  
**HELLENIC BANK PUBLIC COMPANY LIMITED)**  
in the presence of: )

Witness' signature: ) /s/ Irene Graff  
Witness' name: Irene Graff )  
Witness' address: Watson Farley & Williams  
348 Syngrou Avenue  
176 74 Kallithea  
Athens - Greece

**FACILITY AGENT**

**SIGNED** by Eleni Antonakou ) /s/ Eleni Antonakou  
duly authorised as attorney-in-fact )  
for and on behalf of )  
**HELLENIC BANK PUBLIC COMPANY LIMITED**)  
in the presence of: )

Witness' signature: ) /s/ Irene Graff  
Witness' name: Irene Graff )  
Witness' address: Watson Farley & Williams  
348 Syngrou Avenue  
176 74 Kallithea  
Athens - Greece

**COUNTERSIGNED** this 10th day of December 2019 for and on behalf of the following Approved Managers which, by its execution hereof, confirms and acknowledges that (i) it has read and understood the terms and conditions of this deed of amendment and restatement (the "**Deed of Accession, Amendment and Restatement**"), (ii) it agrees in all respects to the same and that the Finance Documents to which it is a party shall remain in full force and effect and shall continue to stand as security for the obligations of the Borrowers under the Facility Agreement and the other Finance Documents (each as amended and supplemented by the Deed of Accession, Amendment and Restatement) and (iii) to the extent that this confirmation creates a new Security, such Security shall be on the terms of the Security Documents in respect of which this confirmation is given (as such capitalised terms are defined in the Facility Agreement).

/s/ Aikaterini Emmanouil

---

By: Aikaterini Emmanouil  
for and on behalf of  
**CONCHART COMMERCIAL INC.**  
Its attorney-in-fact  
as Approved Commercial Manager

/s/ Aikaterini Emmanouil

---

By: Aikaterini Emmanouil  
for and on behalf of  
**TECHNOMAR SHIPPING INC.**  
Its attorney-in-fact  
as Approved Commercial Manager

**APPENDIX**

**FORM OF AMENDED AND RESTATED FACILITY AGREEMENT**

Facility Agreement dated 23 May 2019 as amended and restated by a Deed of Accession, Amendment and Restatement dated \_\_\_\_\_  
December 2019 relating to a term loan facility of up to \$37,000,000 (originally) and increased by \$22,000,000 to \$59,000,000

**US\$59,000,000**

**TERM LOAN FACILITY**

**GLOBAL SHIP LEASE 30 LLC  
GLOBAL SHIP LEASE 31 LLC  
GLOBAL SHIP LEASE 32 LLC  
GLOBAL SHIP LEASE 33 LLC  
GLOBAL SHIP LEASE 34 LLC**  
as joint and several Borrowers

and

**GLOBAL SHIP LEASE, INC.**  
as Parent Guarantor

and

**HELLENIC BANK PUBLIC COMPANY LIMITED**  
as Arranger

and

**HELLENIC BANK PUBLIC COMPANY LIMITED**  
as Facility Agent

and

**HELLENIC BANK PUBLIC COMPANY LIMITED**  
as Security Agent

**FACILITY AGREEMENT**

relating to the financing of part of the acquisition cost of

m.vs. "GSL Eleni" (ex "MSC Ningbo"), "E.R. Santa Barbara" (tbr "GSL Kalliopi"), "GSL Grania" (ex "E.R. Montecito"), "Verdi (tbr "Vinia") and  
"Strauss" (tbr "GSL Christel Elisabeth")

**WATSON FARLEY  
&  
WILLIAMS**

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## **Appendices**

**No table of contents entries found.**

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**THIS AGREEMENT** is made on 23 May 2019 as amended and restated by the Deed of Accession, Amendment and Restatement on \_\_\_\_\_ December 2019

## **PARTIES**

- (1) **GLOBAL SHIP LEASE 30 LLC**, a limited liability company formed in the Marshall Islands with registered number 964614 whose registered address is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, MH96960, the Marshall Islands as a borrower ("**Borrower A**")
- (2) **GLOBAL SHIP LEASE 31 LLC**, a limited liability company formed in the Marshall Islands with registered number 964615 whose registered address is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, MH96960, the Marshall Islands as a borrower ("**Borrower B**")
- (3) **GLOBAL SHIP LEASE 32 LLC**, a limited liability company formed in the Marshall Islands with registered number 964616 whose registered address is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, MH96960, the Marshall Islands as a borrower ("**Borrower C**")
- (4) **GLOBAL SHIP LEASE 33 LLC**, a limited liability company formed in the Republic of Liberia whose registered address is at 80 Broad Street, Monrovia, Liberia as borrower ("**Borrower D**")
- (5) **GLOBAL SHIP LEASE 34 LLC** a limited liability company formed in the Republic of Liberia whose registered address is at 80 Broad Street, Monrovia, Liberia as borrower ("**Borrower E**")
- (6) **GLOBAL SHIP LEASE, INC.**, a corporation incorporated in the Marshall Islands with registered number 28891 whose registered address is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, MH96960, the Marshall Islands as a guarantor (the "**Parent Guarantor**")
- (7) **HELLENIC BANK PUBLIC COMPANY LIMITED** as arranger, acting in such capacity through its office at Corner Limassol Avenue & 200 Athalassa Avenue, 2025 Strovolos, Nicosia, Cyprus (the "**Arranger**")
- (8) **THE FINANCIAL INSTITUTIONS** listed in Part B of Schedule 1 (*The Parties*) as lenders (the "**Lenders**")
- (9) **HELLENIC BANK PUBLIC COMPANY LIMITED** as agent of the other Finance Parties, acting in such capacity through its office at Corner Limassol Avenue & 200 Athalassa Avenue, 2025 Strovolos, Nicosia, Cyprus (the "**Facility Agent**")
- (10) **HELLENIC BANK PUBLIC COMPANY LIMITED** as security agent for the Secured Parties, acting in such capacity through its office at Corner Limassol Avenue & 200 Athalassa Avenue, 2025 Strovolos, Nicosia, Cyprus (the "**Security Agent**")

## **BACKGROUND**

- (A) The Lenders have agreed to make available to the Borrowers a secured term loan facility of an aggregate amount of (originally) up to \$37,000,000 for the purpose of partly financing the acquisition cost of each Ship, in three Tranches, as follows:
    - (i) Tranche A in a principal amount of up to \$13,000,000;
    - (ii) Tranche B in a principal amount of up to \$12,000,000; and
    - (iii) Tranche C in a principal amount of up to \$12,000,000;
  - (B) The principal amount of the Loan outstanding as at the date of the Deed of Accession, Amendment and Restatement is \$35,700,000 ("**Original Loan**").
-

- (C) By the Deed of Accession, Amendment and Restatement, the Finance Parties agreed to certain amendments to this Agreement and the other Finance Documents for the purpose of, amongst others:
- (i) Borrower D and Borrower E acceding to this Agreement as additional borrowers;
  - (ii) effecting an increase of the Facility under this Agreement by an amount equal to \$22,000,000 (from \$37,000,000 to \$59,000,000) to be made available to the Borrowers in two additional Tranches as follows:
    - (A) Tranche D in a principal amount of up to \$11,000,000;
    - (B) Tranche E in a principal amount of up to \$11,000,000;
- (D) This Agreement sets out the terms and conditions of the making of the Facility (or any part thereof) by the Lenders to the Borrowers as amended and restated by the Deed of Accession, Amendment and Restatement.

**OPERATIVE PROVISIONS**



## SECTION 1

### INTERPRETATION

#### 1 DEFINITIONS AND INTERPRETATION

##### 1.1 Definitions

In this Agreement:

**"Account Bank"** means Hellenic Bank Public Company Limited acting through its office at Corner Limassol Avenue & 200 Athalassa Avenue, 2025 Strovolos, Nicosia, Cyprus or any replacement bank or other financial institution as may be approved by the Facility Agent acting with the authorisation of the Majority Lenders.

**"Accounts"** means each Earnings Account, the Retention Account and the Fixed Term Deposit Accounts.

**"Account Security"** means a document creating Security over any Account and, in the case of the Earnings Account of each Original Borrower, such document as amended and restated by the Amended and Restated Deed of Pledge relating to that Original Borrower, in agreed form.

**"Additional Borrower"** means Borrower D or Borrower E.

**"Additional Tranche"** means Tranche D or Tranche E.

**"Additional Ship"** means Ship D or Ship E.

**"Advance"** means the borrowing of all or part of a Tranche under this Agreement.

**"Affiliate"** means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

**"Amended and Restated Deed of Pledge"** means, the amendment and restatement of each of:

- (a) the pledge agreement dated 28 May 2019 and entered into by Borrower A as pledgor and the Security Agent as pledgee;
- (b) the pledge agreement dated 9 October 2019 and entered into by Borrower B as pledgor and the Security Agent as pledgee; and
- (c) the pledge agreement dated 9 September 2019 and entered into by Borrower C as pledgor and the Security Agent as pledgee.

**"Approved Brokers"** means any firm or firms of insurance brokers approved in writing by the Facility Agent, acting with the authorisation of the Majority Lenders.

**"Approved Classification"** means, in relation to a Ship, as at the date of this Agreement or, in the case of Ship D and Ship E, as of the Effective Date, the classification in relation to that Ship specified in Schedule 7 (*Details of the Ships*) or the equivalent classification with another Approved Classification Society.

**"Approved Classification Society"** means, in relation to a Ship, as at the date of this Agreement, the classification society in relation to that Ship specified in Schedule 7 (*Details of the Ships*) or any other classification society which is a member of the International

Association of Classification Societies and is approved in writing by the Facility Agent acting with the authorisation of the Majority Lenders such approval not to be unreasonably withheld.

**"Approved Commercial Manager"** means, in relation to a Ship:

- (a) Conchart Commercial Inc., a corporation incorporated in the Republic of the Marshall Islands whose registered address is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, MH96960, the Marshall Islands having established an office in Greece pursuant to L.27/1975 at 3-5 Menandrou Str.14561 Kifisia, Athens, Greece; or
- (b) any other person approved in writing by the Facility Agent, acting with the prior authorisation in writing of the Majority Lenders (which authorisation no Lender shall unreasonably withhold or delay) as the commercial manager of that Ship,

being as at the date of this Agreement and, in the case of Ship D and Ship E, as of the Effective Date, the manager specified as the approved commercial manager in relation to that Ship in Schedule 7 (*Details of the Ships*).

**"Approved Flag"** means, in relation to a Ship, as at the date of this Agreement, and, in the case of Ship D and Ship E, as of the Effective Date, the flag in relation to that Ship specified in Schedule 7 (*Details of the Ships*) or such other flag approved in writing by the Facility Agent acting with the authorisation of the Majority Lenders, such approval not to be unreasonably withheld.

**"Approved Manager"** means, in relation to a Ship, the Approved Commercial Manager or the Approved Technical Manager of that Ship.

**"Approved Technical Manager"** means, in relation to a Ship:

- (a) Technomar Shipping Inc., a corporation incorporated in the Republic of Liberia whose registered address is at 80 Broad Street, Monrovia, Liberia having established an office in Greece pursuant to L.27/1975 at 3-5 Menandrou Str.14561 Kifisia, Athens, Greece; or
- (b) any other person approved in writing by the Facility Agent, acting with the prior authorisation in writing of the Majority Lenders (which authorisation no Lender shall unreasonably withhold or delay) as the technical manager of that Ship,

being as at the date of this Agreement and, in the case of Ship D and Ship E, as of the Effective Date, the manager specified as the approved technical manager in relation to that Ship in Schedule 7 (*Details of the Ships*).

**"Approved Valuer"** means Allied Shipbroking, Barry Rogliano Salles, Kontiki, Howe Robinson Partners, Maersk Brokers KS (or any Affiliate of such person through which valuations are commonly issued) and any other reputable firm or firms of independent sale and purchase shipbrokers with expertise in valuing containerships willing and able to provide valuation certificates that can be used in the New York Stock Exchange selected by the Facility Agent.

**"Article 55 BRRD"** means Article 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms.

**"Assignment Agreement"** means an agreement substantially in the form set out in Schedule 5 (*Form of Assignment Agreement*) or any other form agreed between the relevant assignor and assignee.

**"Assignable Charter"** means, in relation to a Ship, any Charter in respect of that Ship, having a duration exceeding (or capable of exceeding by way of optional extension or otherwise) 11

months and on terms (including, without limitation, the identity of the charterer, the hire rate and the method of payment of such hire) approved in writing by the Facility Agent (acting with the authorisation of the Majority Lenders), including, without limitation, each Initial Charterparty.

"**Authorisation**" means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation, legalisation or registration.

"**Availability Period**" means:

- (a) in relation to Tranche A, Tranche B and Tranche C, the period from and including the date of this Agreement to and including 30 November 2019.
- (b) in relation to Tranche D and Tranche E, the period from and including the date of this Agreement to and including 31 December 2019.

"**Available Commitment**" means a Lender's Commitment minus:

- (a) the amount of its participation in the outstanding Loan; and
- (b) in relation to any proposed Utilisation, the amount of its participation in the Advance that is due to be made on or before the proposed Utilisation Date.

"**Available Facility**" means the aggregate for the time being of each Lender's Available Commitment.

"**Bail-In Action**" means the exercise of any Write-down and Conversion Powers.

"**Bail-In Legislation**" means:

- (a) in relation to an EEA Member Country which has implemented, or which at any time implements, Article 55 BRRD, the relevant implementing law or regulation as described in the EU Bail-In Legislation Schedule from time to time; and
- (b) in relation to any state other than such an EEA Member Country or (to the extent that the United Kingdom is not such an EEA Member Country) the United Kingdom, any analogous law or regulation from time to time which requires contractual recognition of any Write-down and Conversion Powers contained in that law or regulation.

"**Balloon Instalment**" has the meaning given to it in Clause 6.1 (*Repayment of Loan*).

"**Borrower**" means Borrower A, Borrower B or Borrower C.

"**Break Costs**" means the amount (if any) by which:

- (a) the interest (excluding the Margin) which a Lender should have received for the period from the date of receipt of all or any part of its participation in the Loan or an **Unpaid Sum** to the last day of the current Interest Period in relation to the Loan, the relevant part of the Loan or that Unpaid Sum, had the principal amount or Unpaid Sum received been paid on the last day of that Interest Period;  
  
exceeds
- (b) the amount which that Lender would be able to obtain by placing an amount equal to the principal amount or Unpaid Sum received by it on deposit with a leading bank in the Relevant Interbank Market for a period starting on the Business Day following receipt or recovery and ending on the last day of the current Interest Period.

"**Business Day**" means a day (other than a Saturday or Sunday) on which banks are open for general business in London, Athens, Nicosia and New York.

"**Charter**" means, in relation to a Ship, any charter relating to that Ship, or other contract for its employment, whether or not already in existence.

"**Charter Guarantee**" means any guarantee, bond, letter of credit or other instrument (whether or not already issued) supporting a Charter (including any Assignable Charter or Initial Charterparty), the form of which shall not be subject to the Facility Agent's prior approval.

"**Charterparty Assignment**" means, in relation to any Assignable Charter, an assignment of the relevant Borrower's rights under that Assignable Charter (and any related Charter Guarantee) in favour of the Security Agent in agreed form.

"**Code**" means the US Internal Revenue Code of 1986.

"**Commercial Management Agreement**" means, in relation to a Ship, the agreement entered into between the Borrower owning that Ship and the Approved Commercial Manager of that Ship regarding the commercial management of that Ship.

"**Commitment**" means:

- (a) in relation to an Original Lender, the amount set opposite its name under the heading "Commitment" in Part B of Schedule 1 (*The Parties*) and the amount of any other Commitment transferred to it under this Agreement; and
- (b) in relation to any other Lender, the amount of any Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

"**Compliance Certificate**" means a certificate in the form set out in Schedule 6 (*Form of Compliance Certificate*) or in any other form agreed between the Borrowers and the Facility Agent.

"**Confidential Information**" means all information relating to any Transaction Obligor, any Approved Manager, the Group, the Finance Documents or the Facility of which a Finance Party becomes aware in its capacity as, or for the purpose of becoming, a Finance Party or which is received by a Finance Party in relation to, or for the purpose of becoming a Finance Party under, the Finance Documents or the Facility from either:

- (a) any member of the Group or any of its advisers; or
- (b) another Finance Party, if the information was obtained by that Finance Party directly or indirectly from any member of the Group or any of its advisers,

in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes:

- (i) information that:
  - (A) is or becomes public information other than as a direct or indirect result of any breach by that Finance Party of Clause 44 (*Confidential Information*); or

- (B) is identified in writing at the time of delivery as non-confidential by any member of the Group or any of its advisers; or
  - (C) is known by that Finance Party before the date the information is disclosed to it in accordance with paragraphs (a) or (b) above or is lawfully obtained by that Finance Party after that date, from a source which is, to the best of that Finance Party's knowledge, unconnected with the Group and which, in either case, to the best of that Finance Party's knowledge, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality; and
- (ii) any Funding Rate or Reference Bank Quotation.

**"Confidentiality Undertaking"** means a confidentiality undertaking in substantially the appropriate form recommended by the LMA from time to time or in any other form agreed between the Borrowers and the Facility Agent.

**"Corresponding Debt"** means any amount, other than any Parallel Debt, which an Obligor owes to a Secured Party under or in connection with the Finance Documents.

**"Deed of Accession, Amendment and Restatement"** means the deed of accession, amendment and restatement dated \_\_\_\_\_ December 2019 and made between (i) the Original Borrowers, (ii) the Additional Borrowers, (iii) the Parent Guarantor, (iv) the Arranger, (v) the Lenders, (vi) the Facility Agent and (vii) the Security Agent, amending the terms of this Agreement.

**"Deed of Covenant"** means, in relation to a Ship and if required by the laws of the Approved Flag of that Ship, a deed of covenant collateral to the Mortgage over that Ship in agreed form.

**"Default"** means an Event of Default or a Potential Event of Default.

**"Delegate"** means any delegate, agent, attorney or co-trustee appointed by the Security Agent.

**"Delivery Date"** means, in relation to a Ship the date on which that Ship is delivered by the relevant Seller to the Borrower acquiring that Ship under the relevant MOA.

**"Disruption Event"** means either or both of:

- (a) a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with the Facility (or otherwise in order for the transactions contemplated by the Finance Documents to be carried out) which disruption is not caused by, and is beyond the control of, any of the Finance Parties; or
- (b) the occurrence of any other event which results in a disruption (of a technical or systems-related nature) to the treasury or payments operations of a Party preventing that, or any other, Party:
  - (i) from performing its payment obligations under the Finance Documents; or
  - (ii) from communicating with other Parties in accordance with the terms of the Finance Documents,

and which (in either such case) is not caused by, and is beyond the control of, the Party whose operations are disrupted.

**"Document of Compliance"** has the meaning given to it in the ISM Code.

**"dollars"** and **"\$"** mean the lawful currency, for the time being, of the United States of America.

**"Earnings"** means, in relation to a Ship, all moneys whatsoever which are now, or later become, payable (actually or contingently) to a Borrower or the Security Agent and which arise out of or in connection with or relate to the use or operation of that Ship, including (but not limited to):

- (a) the following, save to the extent that any of them is, with the prior written consent of the Facility Agent, pooled or shared with any other person:
  - (i) all freight, hire and passage moneys including, without limitation, all moneys payable under, arising out of or in connection with a Charter, net of customary commissions, or a Charter Guarantee;
  - (ii) the proceeds of the exercise of any lien on sub-freights;
  - (iii) compensation payable to a Borrower or the Security Agent in the event of requisition of that Ship for hire or use;
  - (iv) remuneration for salvage and towage services;
  - (v) demurrage and detention moneys;
  - (vi) without prejudice to the generality of sub-paragraph (i) above, damages for breach (or payments for variation or termination) of any charterparty or other contract for the employment of that Ship;
  - (vii) all moneys which are at any time payable under any Insurances in relation to loss of hire;
  - (viii) all monies which are at any time payable to a Borrower in relation to general average contribution; and
- (b) if and whenever that Ship is employed on terms whereby any moneys falling within sub-paragraphs (i) to (viii) of paragraph (a) above are pooled or shared with any other person, that proportion of the net receipts of the relevant pooling or sharing arrangement which is attributable to that Ship.

**"Earnings Account"** means, in relation to a Borrower:

- (a) an account in the name of that Borrower with the Account Bank designated "Earnings Account";
- (b) any other account in the name of that Borrower with the Account Bank which may, with the prior written consent of the Facility Agent, be opened in the place of the account referred to in paragraph (a) above, irrespective of the number or designation of such replacement account; or
- (c) any sub-account of any account referred to in paragraphs (a) or (b) above.

**"EEA Member Country"** means any member state of the European Union, Iceland, Liechtenstein and Norway.

**"Effective Date"** has the meaning given to it in the Deed of Accession, Amendment and Restatement.

**"Emergency Event"** means, in relation to a Ship, any event or circumstance that a reasonable person having experience in the management and operation of ships, would consider to constitute an emergency event or circumstance.

**"Environmental Approval"** means any present or future permit, ruling, variance or other Authorisation required under Environmental Laws.

**"Environmental Claim"** means any claim by any governmental, judicial or regulatory authority or any other person which arises out of an Environmental Incident or an alleged Environmental Incident or which relates to any Environmental Law and, for this purpose, **"claim"** includes a claim for damages, compensation, contribution, injury, fines, losses and penalties or any other payment of any kind, including in relation to clean-up and removal, whether or not similar to the foregoing; an order or direction to take, or not to take, certain action or to desist from or suspend certain action; and any form of enforcement or regulatory action, including the arrest or attachment of any asset.

**"Environmental Incident"** means:

- (a) any release, emission, spill or discharge of Environmentally Sensitive Material whether within a Ship or from a Ship into any other vessel or into or upon the air, water, land or soils (including the seabed) or surface water; or
- (b) any incident in which Environmentally Sensitive Material is released, emitted, spilled or discharged into or upon the air, water, land or soils (including the seabed) or surface water from a vessel other than any Ship and which involves a collision between any Ship and such other vessel or some other incident of navigation or operation, in either case, in connection with which a Ship is actually or potentially liable to be arrested, attached, detained or injuncted and/or a Ship and/or any Transaction Obligor and/or any operator or manager (including an Approved Manager) of a Ship is at fault or allegedly at fault or otherwise liable to any legal or administrative action; or
- (c) any other incident in which Environmentally Sensitive Material is released, emitted, spilled or discharged into or upon the air, water, land or soils (including the seabed) or surface water otherwise than from a Ship and in connection with which a Ship is actually or potentially liable to be arrested and/or where any Transaction Obligor and/or any operator or manager (including an Approved Manager) of a Ship is at fault or allegedly at fault or otherwise liable to any legal or administrative action, other than in accordance with an Environmental Approval.

**"Environmental Law"** means any present or future law relating to pollution or protection of human health or the environment, to conditions in the workplace, to the carriage, generation, handling, storage, use, release or spillage of Environmentally Sensitive Material or to actual or threatened releases of Environmentally Sensitive Material.

**"Environmentally Sensitive Material"** means and includes all contaminants, oil, oil products, toxic substances and any other substance (including any chemical, gas or other hazardous or noxious substance) which is (or is capable of being or becoming) polluting, toxic or hazardous.

**"EU Bail-In Legislation Schedule"** means the document described as such and published by the LMA from time to time.

**"Event of Default"** means any event or circumstance specified as such in Clause 27 (*Events of Default*).

"**Facility**" means the term loan facility made available under this Agreement as described in Clause 2 (*The Facility*).

"**Facility Office**" means the office or offices notified by a Lender to the Facility Agent in writing on or before the date it becomes a Lender (or, following that date, by not less than 5 Business Days' written notice) as the office or offices through which it will perform its obligations under this Agreement.

"**FATCA**" means:

- (a) sections 1471 to 1474 of the Code or any associated regulations;
- (b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; or
- (c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraphs (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction.

"**FATCA Application Date**" means:

- (a) in relation to a "withholdable payment" described in section 1473(1)(A)(i) of the Code (which relates to payments of interest and certain other payments from sources within the US), 1 July 2014; or
- (b) in relation to a "passthru payment" described in section 1471(d)(7) of the Code not falling within paragraph (a) above, the first date from which such payment may become subject to a deduction or withholding required by FATCA.

"**FATCA Deduction**" means a deduction or withholding from a payment under a Finance Document required by FATCA.

"**FATCA Exempt Party**" means a Party that is entitled to receive payments free from any FATCA Deduction.

"**Finance Document**" means:

- (a) this Agreement;
- (b) each Utilisation Request;
- (c) the Deed of Accession, Amendment and Restatement;
- (d) the GSL Indenture Letter;
- (e) any Security Document;
- (f) any other document which is executed for the purpose of establishing any priority or subordination arrangement in relation to the Secured Liabilities; or
- (g) any other document designated as such by the Facility Agent and the Borrowers.

"**Finance Party**" means the Facility Agent, the Security Agent, the Arranger or a Lender.

"**Financial Indebtedness**" means any indebtedness for or in relation to:



- (a) moneys borrowed;
- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in relation to any lease or hire purchase contract which would, in accordance with GAAP, be treated as a balance sheet liability (other than any liability in respect of a lease or hire purchase contract which would, in accordance with GAAP in force prior to 1 January 2019 have been treated as an operating lease).
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any amount raised under any other transaction (including any forward sale or purchase agreement) of a type not referred to in any other paragraph of this definition having the commercial effect of a borrowing;
- (g) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that derivative transaction, that amount) shall be taken into account);
- (h) any counter-indemnity obligation in relation to a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and
- (i) the amount of any liability in relation to any guarantee or indemnity for any of the items referred to in paragraphs (a) to (h) above.

**"Fixed Term Deposit Account"** means, in relation to a Borrower:

- (a) an account in the name of that Borrower with the Account Bank designated "Fixed Term Deposit Account";
- (b) any other account in the name of that Borrower with the Account Bank which may, with the prior written consent of the Facility Agent, be opened in the place of the account referred to in paragraph (a) above, irrespective of the number or designation of such replacement account; or
- (c) any sub-account of any account referred to in paragraphs (a) or (b) above.

**"Funding Rate"** means any individual rate notified by a Lender to the Facility Agent pursuant to sub-paragraph (ii) of paragraph (a) of Clause 10.4 (*Cost of funds*).

**"GAAP"** means generally accepted accounting principles in US including IFRS.

**"General Assignment"** means, in relation to a Ship, the general assignment creating Security over that Ship's Earnings, its Insurances and any Requisition Compensation in relation to that Ship, in agreed form.

**"Group"** means the Parent Guarantor and its Subsidiaries for the time being.

**"GSL Indenture"** means the 9.875% first priority secured notes issued by GSL with a scheduled maturity falling on 15 November 2022 with a current outstanding amount of \$340,000,000.

**"GSL Indenture Letter"** means a letter to be provided to the Facility Agent by the Parent Guarantor, in respect of the GSL Indenture in agreed form.

**"Holding Company"** means, in relation to a person, any other person in relation to which it is a Subsidiary.

**"IFRS"** means international accounting standards within the meaning of the IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements.

**"Indemnified Person"** has the meaning given to it in Clause 14.2 (*Other indemnities*).

**"Initial Charterer"** means:

- (a) in relation to Ship A, Ship B, Ship C, Ship D, Maersk Line A/S of Esplanaden 50, 1263 Copenhagen K, Denmark; and
- (b) in relation to Ship E, Sealand Asia (MCC) c/o Maersk Singapore Pte Ltd. - as agent for Sealand Maersk Asia Pte. Ltd. a company incorporated in Singapore whose principal office is at 200 Cantonment Road, Southpoint 10-00, 089763 Singapore.

**"Initial Charterparty"** means, in relation to a Ship, a charterparty in relation to that Ship entered or to be entered into between the Borrower which is the owner of that Ship and the Initial Charterer and otherwise on terms (including, without limitation, the hire rate and the method of payment of such hire) approved in writing by the Facility Agent at its sole discretion.

**"Insurances"** means, in relation to a Ship:

- (a) all policies and contracts of insurance, including entries of that Ship in any protection and indemnity or war risks association, effected in relation to that Ship, that Ship's Earnings (if applicable) or otherwise in relation to that Ship whether before, on or after the date of this Agreement; and
- (b) all rights and other assets relating to, or derived from, any of such policies, contracts or entries, including any rights to a return of premium and any rights in relation to any claim whether or not the relevant policy, contract of insurance or entry has expired on or before the date of this Agreement.

**"Interest Payment Date"** means a date on which interest is payable pursuant to Clause 8.2 (*Payment of interest*).

**"Interest Period"** means, in relation to the Loan or any part of the Loan, each period determined in accordance with Clause 9 (*Interest Periods*) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 8.3 (*Default interest*).

**"Interpolated Screen Rate"** means, in relation to the Loan or any part of the Loan, the rate which results from interpolating on a linear basis between:

- (a) the applicable Screen Rate for the longest period (for which that Screen Rate is available) which is less than the Interest Period of the Loan or that part of the Loan; and
- (b) the applicable Screen Rate for the shortest period (for which that Screen Rate is available) which exceeds the Interest Period of the Loan or that part of the Loan,

each as of the Specified Time for dollars.

"**ISM Code**" means the International Safety Management Code for the Safe Operation of Ships and for Pollution Prevention (including the guidelines on its implementation), adopted by the International Maritime Organisation, as the same may be amended or supplemented from time to time.

"**ISPS Code**" means the International Ship and Port Facility Security (ISPS) Code as adopted by the International Maritime Organization's (IMO) Diplomatic Conference of December 2002, as the same may be amended or supplemented from time to time.

"**ISSC**" means an International Ship Security Certificate issued under the ISPS Code.

"**Lender**" means:

- (a) any Original Lender; and
- (b) any bank, financial institution, trust, fund or other entity which has become a Party as a Lender in accordance with Clause 28 (*Changes to the Lenders*),

which in each case has not ceased to be a Party as such in accordance with this Agreement.

"**LIBOR**" means, in relation to the Loan or any part of the Loan:

- (a) the applicable Screen Rate as of the Specified Time for dollars and for a period equal in length to the Interest Period of the Loan or that part of the Loan; or
- (b) as otherwise determined pursuant to Clause 10.1 (*Unavailability of Screen Rate*),

and if, in either case, that rate is less than zero, LIBOR shall be deemed to be zero.

"**Liquid Funds**" means, at any time, cash and cash equivalents as shown in the latest financial statements of the Parent Guarantor delivered pursuant to Clause 20.2 (*Financial statements*), for so long as such cash has not been blocked due to the enforcement of any Security held, by any bank or any other third party or otherwise.

"**LLC Interests Security**" means, in relation to a Borrower, a document creating Security over the limited liability company interests in that Borrower in agreed form.

"**LMA**" means the Loan Market Association or any successor organisation.

"**Loan**" means the loan to be made available under the Facility or the aggregate principal amount outstanding at any relevant time of the borrowings under the Facility and a "**part of the Loan**" means an Advance, a Tranche, a part of a Tranche or any part of the Loan as the context may require.

"**Major Casualty**" means, in relation to a Ship, any casualty to that Ship in relation to which the claim or the aggregate of the claims against all insurers, before adjustment for any relevant franchise or deductible, exceeds \$1,000,000 or the equivalent in any other currency.

"**Majority Lenders**" means:

- (a) if no Advance has yet been made, a Lender or Lenders whose Commitments aggregate more than 66 $\frac{2}{3}$  per cent. of the Total Commitments; or
- (b) at any other time, a Lender or Lenders whose participations in the Loan aggregate more than 66 $\frac{2}{3}$  per cent. of the amount of the Loan then outstanding or, if the Loan

has been repaid or prepaid in full, a Lender or Lenders whose participations in the Loan immediately before repayment or prepayment in full aggregate more than 66 $\frac{2}{3}$  per cent. of the Loan immediately before such repayment or prepayment in full.

**"Management Agreement"** means a Technical Management Agreement or a Commercial Management Agreement.

**"Manager's Undertaking"** means, in relation to a Ship, the letter of undertaking from each Approved Manager of that Ship subordinating the rights of that Approved Manager against that Ship and the Borrower which is the owner of that Ship to the rights of the Finance Parties in agreed form.

**"Margin"** means 3.90 per cent. per annum.

**"Market Value"** means, in relation to a Ship or any other vessel, at any date and as determined by the Facility Agent, an amount equal to the market value of that Ship or vessel shown by taking the arithmetic mean of two or, as the case may be pursuant to Clause 25.7 (*Provision of valuations*), three valuations, each prepared:

- (a) as at a date not more than 30 days previously;
- (b) by an Approved Valuer;
- (c) with or without physical inspection of that Ship or vessel (as the Facility Agent may require); and
- (d) on the basis of a sale for prompt delivery for cash on normal arm's length commercial terms as between a willing seller and a willing buyer, free of any Charter.

**"Material Adverse Effect"** means in the reasonable opinion of the Majority Lenders a material adverse effect on:

- (a) the business, operations, property, condition (financial or otherwise) or prospects of any Transaction Obligor;
- (b) the ability of any Transaction Obligor to perform its obligations under any Finance Document;
- (c) the ability of any Approved Manager its ability to perform, its obligations under the any Manager's Undertaking to which it is a party; or
- (d) the validity or enforceability of, or the effectiveness or ranking of any Security granted or intended to be granted pursuant to any of, the Finance Documents or the rights or remedies of any Finance Party under any of the Finance Documents.

**"Minimum Liquidity Amount"** means, in relation to each Ship subject to a Mortgage, \$300,000 (being on the Effective Date in relation to all ships subject to a Mortgage an aggregate amount equal to \$1,500,000).

**"MOA"** means MOA A, MOA B, MOA C, MOA D or MOA E.

**"MOA A"** means the memorandum of agreement dated 20 May 2019 and made between (i) Borrower A as buyer and (ii) Seller A for the purchase of Ship A (as the same may be amended and supplemented from time to time).

**"MOA B"** means the memorandum of agreement made or to be made between (i) Borrower B as buyer and (ii) Seller B for the purchase of Ship B (as the same may be amended and supplemented from time to time).

"**MOA C**" means the memorandum of agreement made or to be made between (i) Borrower C as buyer and (ii) Seller C for the purchase of Ship C (as the same may be amended and supplemented from time to time).

"**MOA D**" means the memorandum of agreement made or to be made between (i) Borrower D as buyer and (ii) Seller D for the purchase of Ship D (as the same may be amended and supplemented from time to time).

"**MOA E**" means the memorandum of agreement made or to be made between (i) Borrower E as buyer and (ii) Seller E for the purchase of Ship E (as the same may be amended and supplemented from time to time).

"**Month**" means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:

- (a) (subject to paragraph (c) below) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day;
- (b) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month; and
- (c) if an Interest Period begins on the last Business Day of a calendar month, that Interest Period shall end on the last Business Day in the calendar month in which that Interest Period is to end.

The above rules will only apply to the last Month of any period.

"**Mortgage**" means, in relation to a Ship, the first preferred or priority ship mortgage (as applicable for the Approved Flag) on that Ship in agreed form.

"**Obligor**" means a Borrower or the Parent Guarantor.

"**Original Borrower**" means Borrower A, Borrower B or Borrower C.

"**Original Available Commitment**" means a Lender's Original Commitment minus:

- (a) the amount of its participation in the outstanding Original Loan; and
- (b) in relation to any proposed Utilisation, the amount of its participation in the Advance that is due to be made on or before the proposed Utilisation Date.

"**Original Commitments**" means the Commitments of the Lenders in relation to the Original Tranches in the aggregate amount of \$37,000,000.

"**Original Financial Statements**" means the audited financial statements of the Parent Guarantor for its financial year ended 31 December 2018.

"**Original Jurisdiction**" means, in relation to an Obligor, the jurisdiction under whose laws that Obligor is incorporated or formed as at the date of this Agreement or, as the case may be, the Effective Date.

"**Original Ship**" means Ship A, Ship B or Ship C.

"**Original Tranche**" means Tranche A, Tranche B or Tranche C.

"Overseas Regulations" means the Overseas Companies Regulations 2009 (SI 2009/1801).

"Parallel Debt" means any amount which an Obligor owes to the Security Agent under Clause 31.2 (*Parallel Debt (Covenant to pay the Security Agent)*) or under that clause as incorporated by reference or in full in any other Finance Document.

"Participating Member State" means any member state of the European Union that has the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

"Party" means a party to this Agreement.

"Perfection Requirements" means the making or procuring of filings, stampings, registrations, notarisations, endorsements, translations and/or notifications of any Finance Document (and/or any Security created under it) necessary for the validity, enforceability (as against the relevant Obligor or any relevant third party) and/or perfection of that Finance Document.

"Permitted Charter" means, in relation to a Ship:

- (a) a Charter:
  - (i) which is a time, voyage or consecutive voyage charter;
  - (ii) the duration of which does not exceed and is not capable of exceeding, by virtue of any optional extensions, 11 months;
  - (iii) which is entered into on *bona fide* arm's length terms at the time at which that Ship is fixed; and
  - (iv) in relation to which not more than two months' hire is payable in advance;
- (b) any other Charter (including any Assignable Charter or Initial Charterparty) which is approved in writing by the Facility Agent acting with the authorisation of the Majority Lenders.

"Permitted Financial Indebtedness" means:

- (a) any Financial Indebtedness incurred under the Finance Documents; and
- (b) any Permitted Inter-company Loan.

"Permitted Inter-company Loan" means a loan made or to be made to a Borrower by a member of the Group:

- (a) which is unsecured;
- (b) in relation to which no interest, fees, costs or expenses are payable during the Security Period (except, for the avoidance of doubt, from cash which a Borrower would otherwise be permitted to distribute to the Parent Guarantor under Clause 22.20 (*Dividends*)(a));
- (c) in relation to which no repayment or prepayment of principal is capable of being made to the relevant lender in accordance with its terms and conditions during the Security Period (except, for the avoidance of doubt, from cash which a Borrower would otherwise be permitted to distribute to the Parent Guarantor under Clause 22.20 (*Dividends*)(a));

- (d) which is fully subordinated in all respects to the Secured Liabilities in accordance with a subordination agreement;
- (e) in respect of which the Facility Agent has granted its prior written consent (acting with the authorisation of the Majority Lenders); and
- (f) which is the subject of Subordinated Debt Security.

**"Permitted Security"** means:

- (a) Security created by the Finance Documents;
- (b) any netting or set-off arrangement entered into by any member of the Group in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances;
- (c) liens for unpaid master's and crew's wages in accordance with first class ship ownership and management practice and not being enforced through arrest;
- (d) liens for salvage;
- (e) liens for master's disbursements incurred in the ordinary course of trading in accordance with first class ship ownership and management practise and not being enforced through arrest; and
- (f) any other lien arising by operation of law or otherwise in the ordinary course of the operation, repair or maintenance of any Ship:
  - (i) not as a result of any default or omission by any Borrower;
  - (ii) not being enforced through arrest; and
  - (iii) subject, in the case of liens for repair or maintenance, to Clause 24.16 (*Restrictions on chartering, appointment of managers etc.*),

provided such lien does not secure amounts more than 30 days overdue (unless the overdue amount is being contested in good faith by appropriate steps).

**"Potential Event of Default"** means any event or circumstance specified in Clause 27 (*Events of Default*) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

**"Prohibited Person"** means any person (whether designated by name or by reason of being included in a class of persons) against whom Sanctions are directed.

**"Prohibited User"** means any person (whether designated by name or by reason of being included in a class of persons) against whom Sanctions are directed.

**"Protected Party"** has the meaning given to it in Clause 12.1 (*Definitions*).

**"Quotation Day"** means, in relation to any period for which an interest rate is to be determined, two Business Days before the first day of that period unless market practice differs in the Relevant Interbank Market in which case the Quotation Day will be determined by the Facility Agent in accordance with market practice in the Relevant Interbank Market (and if quotations would normally be given by leading banks in the Relevant Interbank Market on more than one day, the Quotation Day will be the last of those days).

**"Receiver"** means a receiver or receiver and manager or administrative receiver of the whole or any part of the Security Assets.

**"Reference Bank Quotation"** means any quotation supplied to the Facility Agent by a Reference Bank.

**"Reference Bank Rate"** means the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Facility Agent at its request by the Reference Banks:

- (a) if:
  - (i) the Reference Bank is a contributor to the Screen Rate; and
  - (ii) it consists of a single figure,  
as the rate (applied to the relevant Reference Bank and the relevant currency and period) which contributors to the Screen Rate are asked to submit to the relevant administrator; or
- (b) in any other case, as the rate at which the relevant Reference Bank could fund itself in dollars for the relevant period with reference to the unsecured wholesale funding market.

**"Reference Banks"** means the principal offices of the Lenders, the Facility Agent or such other leading banks in the Relevant Interbank Market as may be appointed by the Facility Agent in consultation with the Borrowers.

**"Related Fund"** in relation to a fund (the "first fund"), means a fund which is managed or advised by the same investment manager or investment adviser as the first fund or, if it is managed by a different investment manager or investment adviser, a fund whose investment manager or investment adviser is an Affiliate of the investment manager or investment adviser of the first fund.

**"Relevant Interbank Market"** means the London interbank market.

**"Relevant Jurisdiction"** means, in relation to a Transaction Obligor or an Approved Manager:

- (a) its Original Jurisdiction;
- (b) any jurisdiction where any asset subject to, or intended to be subject to, any of the Transaction Security created, or intended to be created, by it is situated;
- (c) any jurisdiction where it conducts its business; and
- (d) the jurisdiction whose laws govern the perfection of any of the Security Documents entered into by it.

**"Relevant Nominating Body"** means any applicable central bank, regulator or other supervisory authority or a group of them, or any working group or committee sponsored or chaired by, or constituted at the request of, any of them or the Financial Stability Board.

**"Repayment Date"** means each date on which a Repayment Instalment is required to be paid under Clause 6.1 (*Repayment of Loan*).

**"Repayment Instalment"** has the meaning given to it in Clause 6.1 (*Repayment of Loan*).



**"Repeating Representation"** means each of the representations set out in Clause 19 (*Representations*) except paragraph (b) of Clause 19.3 (*Share capital, membership interests and ownership*), Clause 19.10 (*Insolvency*), Clause 19.11 (*No filing or stamp taxes*) and Clause 19.12 (*Deduction of Tax*) and any representation of any Transaction Obligor made in any other Finance Document that is expressed to be a "Repeating Representation" or is otherwise expressed to be repeated.

**"Replacement Benchmark"** means a benchmark rate which is:

- (a) formally designated, nominated or recommended as the replacement for a Screen Rate by:
  - (i) the administrator of that Screen Rate (provided that the market or economic reality that such benchmark rate measures is the same as that measured by that Screen Rate); or
  - (ii) any Relevant Nominating Body,and if replacements have, at the relevant time, been formally designated, nominated or recommended under both paragraphs, the "Replacement Benchmark" will be the replacement under paragraph (ii) above; or
- (b) if paragraph (a) above does not apply, in the opinion of the Majority Lenders, generally accepted in the international or any relevant domestic syndicated loan markets as the appropriate successor to a Screen Rate.

**"Representative"** means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian.

**"Required Security Cover Ratio"** means:

- (a) at any time during which all Ships then subject to a Mortgage are employed under an Assignable Charter, a Security Cover Ratio of not less than 125 per cent.; and
- (b) at all other times, a Security Cover Ratio of not less than 150 per cent..

**"Requisition"** means in relation to a Ship:

- (a) any expropriation, confiscation, requisition (excluding a requisition for hire or use which does not involve a requisition for title) or acquisition of that Ship, whether for full consideration, a consideration less than its proper value, a nominal consideration or without any consideration, which is effected (whether *de jure* or *de facto*) by any government or official authority or by any person or persons claiming to be or to represent a government or official authority; and
- (b) any capture or seizure of that Ship (including any hijacking or theft) by any person whatsoever.

**"Requisition Compensation"** includes all compensation or other moneys payable to a Borrower by reason of any Requisition or any arrest or detention of the Ship owned by that Borrower in the exercise or purported exercise of any lien or claim.

**"Resolution Authority"** means any body which has authority to exercise any Write-down and Conversion Powers.

**"Retention Account"** means:

- (a) an account in the name of the Borrowers with the Account Bank designated "Retention Account";
- (b) any other account in the name of the Borrowers with the Account Bank which may, with the prior written consent of the Facility Agent, be opened in the place of the account referred to in paragraph (a) above, irrespective of the number or designation of such replacement account; or
- (c) any sub-account of any account referred to in paragraphs (a) or (b) above.

**"Safety Management Certificate"** has the meaning given to it in the ISM Code.

**"Safety Management System"** has the meaning given to it in the ISM Code.

**"Sanctions"** means any sanctions, embargoes, freezing provisions, prohibitions or other restrictions relating to trading, doing business, investment, exporting, financing or making assets available (or other activities similar to or connected with any of the foregoing):

- (a) imposed by law or regulation of the United Kingdom, the Council of the European Union, the United Nations or its Security Council or the United States of America regardless of whether the same is or is not binding on any member of the Group, any Transaction Obligor or any Approved Manager; or
- (b) otherwise imposed by any law or regulation binding on a Transaction Obligor, a member of the Group or an Approved Manager or to which a Transaction Obligor, a member of the Group or an Approved Manager is subject (which shall include without limitation, any extra-territorial sanctions imposed by law or regulation of the United States of America).

**"Screen Rate"** means the London interbank offered rate administered by ICE Benchmark Administration Limited (or any other person which takes over the administration of that rate) for dollars for the relevant period displayed on page LIBOR01 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters. If such page or service ceases to be available, the Facility Agent may specify another page or service displaying the relevant rate after consultation with the Borrowers.

**"Screen Rate Contingency Period"** means 10 Business Days.

**"Screen Rate Replacement Event"** means, in relation to a Screen Rate:

- (a) the methodology, formula or other means of determining that Screen Rate has, in the opinion of the Majority Lenders, and the Borrowers materially changed;
- (b)
  - (i)
    - (A) the administrator of that Screen Rate or its supervisor publicly announces that such administrator is insolvent; or
    - (B) information is published in any order, decree, notice, petition or filing, however described, or filed with a court, tribunal, exchange, regulatory authority or similar administrative, regulatory or judicial body which reasonably confirms that the administrator of that Screen Rate is insolvent,

provided that, in each case, at that time, there is no successor administrator to continue to provide that Screen Rate;

- (ii) the administrator of that Screen Rate publicly announces that it has ceased or will cease, to provide that Screen Rate permanently or indefinitely and, at that time, there is no successor administrator to continue to provide that Screen Rate;
  - (iii) the supervisor of the administrator of that Screen Rate publicly announces that such Screen Rate has been or will be permanently or indefinitely discontinued; or
  - (iv) the administrator of that Screen Rate or its supervisor announces that that Screen Rate may no longer be used; or
- (c) the administrator of that Screen Rate determines that that Screen Rate should be calculated in accordance with its reduced submissions or other contingency or fallback policies or arrangements and either:
- (i) the circumstance(s) or event(s) leading to such determination are not (in the opinion of the Majority Lenders and the Borrowers) temporary; or
  - (ii) that Screen Rate is calculated in accordance with any such policy or arrangement for a period no less than the Screen Rate Contingency Period; or
- (d) in the opinion of the Majority Lenders and the Borrowers, that Screen Rate is otherwise no longer appropriate for the purposes of calculating interest under this Agreement.

**"Secured Liabilities"** means all present and future obligations and liabilities, (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of each Transaction Obligor and each Approved Manager to any Secured Party under or in connection with each Finance Document.

**"Secured Party"** means each Finance Party which is from time to time party to this Agreement, a Receiver or any Delegate.

**"Security"** means a mortgage, pledge, lien, charge, assignment, hypothecation or security interest or any other agreement or arrangement having the effect of conferring security.

**"Security Assets"** means all of the assets of the Transaction Obligors or any Approved Manager (as applicable) which from time to time are, or are expressed to be, the subject of the Transaction Security.

**"Security Cover Ratio"** means, at any relevant time, the aggregate of:

- (a) the Market Value of the Ships; plus
- (b) the net realisable value of additional Security previously provided under Clause 25 (*Security Cover*),

expressed as a percentage of the Loan, as at that time.

**"Security Document"** means:

- (a) any LLC Interests Security;
- (b) any Mortgage;
- (c) any Deed of Covenant (if applicable);
- (d) any General Assignment;
- (e) any Account Security;
- (f) any Charterparty Assignment;
- (g) any Manager's Undertaking;
- (h) any Subordinated Debt Security;
- (i) any other document (whether or not it creates Security) which is executed as security for the Secured Liabilities; or
- (j) any other document designated as such by the Facility Agent and the Borrowers.

**"Security Period"** means the period starting on the date of this Agreement and ending on the date on which the Facility Agent is satisfied that there is no outstanding Commitment in force and that the Secured Liabilities have been irrevocably and unconditionally paid and discharged in full.

**"Security Property"** means:

- (a) the Transaction Security expressed to be granted in favour of the Security Agent as trustee for the Secured Parties and all proceeds of that Transaction Security;
- (b) all obligations expressed to be undertaken by a Transaction Obligor to pay amounts in relation to the Secured Liabilities to the Security Agent as trustee for the Secured Parties and secured by the Transaction Security together with all representations and warranties expressed to be given by a Transaction Obligor or any other person in favour of the Security Agent as trustee for the Secured Parties;
- (c) the Security Agent's interest in any turnover trust created under the Finance Documents;
- (d) any other amounts or property, whether rights, entitlements, choses in action or otherwise, actual or contingent, which the Security Agent is required by the terms of the Finance Documents to hold as trustee on trust for the Secured Parties,  
except:
  - (i) rights intended for the sole benefit of the Security Agent; and
  - (ii) any moneys or other assets which the Security Agent has transferred to the Facility Agent or (being entitled to do so) has retained in accordance with the provisions of this Agreement.

**"Selection Notice"** means a notice substantially in the form set out in Part B of Schedule 3 (*Requests*) given in accordance with Clause 9 (*Interest Periods*).

**"Seller"** means Seller A, Seller B, Seller C, Seller D or Seller E.

"**Seller A**" means Vierundsechzigste "Michel" Schiffahrts GmbH & Co. KG, a private limited partnership incorporated in Hamburg, Germany with registered number HRA 121430 whose registered office is at Warburgstrasse 50, 20354 Hamburg.

"**Seller B**" means the company specified in MOA B as the seller of Ship B.

"**Seller C**" means the company specified in MOA C as the seller of Ship C.

"**Seller D**" means the company specified in MOA D as the seller of Ship D.

"**Seller E**" means the company specified in MOA E as the seller of Ship E.

"**Servicing Party**" means the Facility Agent or the Security Agent.

"**Ship**" means Ship A, Ship B, Ship C, Ship D or Ship E.

"**Ship A**" means m.v. "GSL ELENI" (ex "MSC Ningbo"), currently registered in the ownership of the relevant Seller with IMO number 9285677 and which is to be purchased by Borrower A under the MOA A and which, on delivery, is to be registered in the ownership of Borrower A under an Approved Flag, further details of which are set out opposite its name in Schedule 7 (*Details of the Ships*), and everything now or in the future belonging to her on board or ashore.

"**Ship B**" means m.v. "E.R. Santa Barbara" (tbr "GSL Kalliopi"), currently registered in the ownership of the relevant Seller with IMO number 9285689 and which is to be purchased by Borrower B under the MOA B, and which, on delivery, is to be registered in the ownership of Borrower B under an Approved Flag, further details of which are set out opposite its name in Schedule 7 (*Details of the Ships*), and everything now or in the future belonging to her on board or ashore.

"**Ship C**" means m.v. "GSL Grania" (ex "E.R. Montecito"), currently registered in the ownership of the relevant Seller with IMO number 9285653 and which is to be purchased by Borrower C under the MOA C and which, on delivery, is to be registered in the ownership of Borrower C under an Approved Flag, further details of which are set out opposite its name in Schedule 7 (*Details of the Ships*), and everything now or in the future belonging to her on board or ashore.

"**Ship D**" means m.v. "Verdi" (tbr "Vinia"), currently registered in the ownership of Seller D with IMO number 9280653 and which is to be purchased by Borrower D under the MOA D and which, on delivery, is to be registered in the ownership of Borrower D under an Approved Flag, further details of which are set out opposite its name in Schedule 7 (*Details of Ships*), and everything now or in the future belonging to her on board or ashore.

"**Ship E**" means "Strauss" (tbr "GSL Christel Elisabeth"), currently registered in the ownership of Seller E with IMO number 9280641 and which is to be purchased by Borrower E under the MOA E and which, on delivery, is to be registered in the ownership of Borrower E under an Approved Flag, further details of which are set out opposite its name in Schedule 7 (*Details of Ships*), and everything now or in the future belonging to her on board or ashore.

"**Specified Time**" means a day or time determined in accordance with Schedule 8 (*Timetables*).

"**Subordinated Debt Security**" means a Security over subordinated liabilities entered into or to be entered into by any member of the Group who becomes a creditor of any Permitted Inter-Company Loan in favour of the Security Agent in an agreed form.

"**Subsidiary**" means a subsidiary within the meaning of section 1159 of the Companies Act 2006.

"**Tax**" means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

"**Tax Credit**" has the meaning given to it in Clause 12.1 (*Definitions*).

"**Tax Deduction**" has the meaning given to it in Clause 12.1 (*Definitions*).

"**Tax Payment**" has the meaning given to it in Clause 12.1 (*Definitions*).

"**Technical Management Agreement**" means, in relation to a Ship, the agreement entered into between the Borrower owning that Ship and the Approved Technical Manager of that Ship regarding the technical management of that Ship.

"**Termination Date**" means:

- (a) in relation to each Original Tranche, the date falling on the earlier of (i) the fifth anniversary of relevant Utilisation Date of that Original Tranche and (ii) 30 November 2024; and
- (b) in relation to each Additional Tranche, the date falling on the earlier of (i) the fifth anniversary of the relevant Utilisation Date of that Additional Tranche and (ii) 31 December 2024; and

"**Third Parties Act**" has the meaning given to it in Clause 1.5 (*Third party rights*).

"**Total Commitments**" means the aggregate of the Commitments, which was \$37,000,000 at the date of this Agreement and has been increased by \$22,000,000 to \$59,000,000 with effect from the Effective Date.

"**Total Loss**" means, in relation to a Ship:

- (a) actual, constructive, compromised, agreed or arranged total loss of that Ship; or
- (b) any Requisition of that Ship unless that Ship is returned to the full control of the relevant Borrower within 45 days of such Requisition (or such longer period as may be accepted by the Facility Agent in writing, acting with the authorisation of the Majority Lenders).

"**Total Loss Date**" means, in relation to the Total Loss of a Ship:

- (a) in the case of an actual loss of that Ship, the date on which it occurred or, if that is unknown, the date when that Ship was last heard of;
- (b) in the case of a constructive, compromised, agreed or arranged total loss of that Ship, the earlier of:
  - (i) the date on which a notice of abandonment is given (or deemed or agreed to be given) to the insurers; and
  - (ii) the date of any compromise, arrangement or agreement made by or on behalf of the relevant Borrower with that Ship's insurers in which the insurers agree to treat that Ship as a total loss; and
- (c) in the case of any other type of Total Loss, the date (or the most likely date) on which it appears to the Facility Agent that the event constituting the total loss occurred.

"**Tranche**" means Tranche A, Tranche B, Tranche C, Tranche D or Tranche E.

**"Tranche A"** means that part of the Loan made or to be made available to the Borrowers to finance part of the acquisition cost of Ship A by Borrower A in a principal amount not exceeding \$13,000,000.

**"Tranche B"** means that part of the Loan made or to be made available to the Borrowers to finance part of the acquisition cost of Ship B by Borrower B in a principal amount not exceeding \$12,000,000.

**"Tranche C"** means that part of the Loan made or to be made available to the Borrowers to finance part of the acquisition cost of Ship C by Borrower C in a principal amount not exceeding \$12,000,000.

**"Tranche D"** means that part of the Loan made or to be made available to the Borrowers to finance part of the acquisition cost of Ship D by Borrower D in a principal amount not exceeding \$11,000,000.

**"Tranche E"** means that part of the Loan made or to be made available to the Borrowers to finance part of the acquisition cost of Ship E by Borrower E in a principal amount not exceeding \$11,000,000.

**"Transaction Document"** means:

- (a) a Finance Document;
- (b) any document relating to or evidencing the subordination of a Permitted Inter-Company Loan;
- (c) any Charter;
- (d) any MOA;
- (e) any other document designated as such by (i) the Facility Agent and (ii) a Transaction Obligor or an Approved Manager.

**"Transaction Obligor"** means an Obligor or any other member of the Group who executes a Finance Document.

**"Transaction Security"** means the Security created or evidenced or expressed to be created or evidenced under the Security Documents.

**"Transfer Certificate"** means a certificate substantially in the form set out in Schedule 4 (*Form of Transfer Certificate*) or any other form agreed between the Facility Agent and the Borrowers.

**"Transfer Date"** means, in relation to an assignment or a transfer, the later of:

- (a) the proposed Transfer Date specified in the relevant Assignment Agreement or Transfer Certificate; and
- (b) the date on which the Facility Agent executes the relevant Assignment Agreement or Transfer Certificate.

**"UK Bail-In Legislation"** means (to the extent that the United Kingdom is not an EEA Member Country which has implemented, or implements, Article 55 BRRD) Part 1 of the United Kingdom Banking Act 2009 and any other law or regulation applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial

institutes or their affiliates (otherwise than through liquidation, administration or other insolvency proceedings).

**"UK Establishment"** means a UK establishment as defined in the Overseas Regulations.

**"Unpaid Sum"** means any sum due and payable but unpaid by a Transaction Obligor under the Finance Documents.

**"US"** means the United States of America.

**"US Tax Obligor"** means:

- (a) a person which is resident for tax purposes in the US; or
- (b) a person some or all of whose payments under the Finance Documents are from sources within the US for US federal income tax purposes.

**"Utilisation"** means the utilisation of the Facility.

**"Utilisation Date"** means, in relation to a Utilisation, the date of the Utilisation, being the date on which the relevant Advance is to be made.

**"Utilisation Request"** means a notice substantially in the form set out in Part A of Schedule 3 (*Requests*).

**"VAT"** means:

- (a) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and
- (b) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) above, or imposed elsewhere.

**"Write-down and Conversion Powers"** means:

- (a) in relation to any Bail-In Legislation described in the EU Bail-In Legislation Schedule from time to time, the powers described as such in relation to that Bail-In Legislation in the EU Bail-In Legislation Schedule;
- (b) in relation to any other applicable Bail-In Legislation:
  - (i) any powers under that Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers; and
  - (ii) any similar or analogous powers under that Bail-In Legislation; and



- (c) in relation to any UK Bail-In Legislation:
  - (i) any powers under that UK Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that UK Bail-In Legislation that are related to or ancillary to any of those powers; and
  - (ii) any similar or analogous powers under that UK Bail-In Legislation.

## 1.2 Construction

- (a) Unless a contrary indication appears, a reference in this Agreement to:
    - (i) the "**Account Bank**", the "**Arranger**", the "**Facility Agent**", any "**Finance Party**", any "**Lender**", any "**Obligor**", any "**Party**", any "**Secured Party**", the "**Security Agent**", any "**Transaction Obligor**" or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Finance Documents;
    - (ii) "**assets**" includes present and future properties, revenues and rights of every description;
    - (iii) a liability which is "**contingent**" means a liability which is not certain to arise and/or the amount of which remains unascertained;
    - (iv) "**document**" includes a deed and also a letter, fax, email or telex;
    - (v) "**expense**" means any kind of cost, charge or expense (including all legal costs, charges and expenses) and any applicable Tax including VAT;
    - (vi) a "**Finance Document**", a "**Security Document**" or "**Transaction Document**" or any other agreement or instrument is a reference to that Finance Document, Security Document or Transaction Document or other agreement or instrument as amended, novated, supplemented, extended or restated;
    - (vii) a "**group of Lenders**" includes all the Lenders;
    - (viii) "**indebtedness**" includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
    - (ix) "**law**" includes any order or decree, any form of delegated legislation, any treaty or international convention and any regulation or resolution of the Council of the European Union, the European Commission, the United Nations or its Security Council;
    - (x) "**proceedings**" means, in relation to any enforcement provision of a Finance Document, proceedings of any kind, including an application for a provisional or protective measure;
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- (xi) a "**person**" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
  - (xii) a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
  - (xiii) a provision of law is a reference to that provision as amended or re-enacted;
  - (xiv) a time of day is a reference to London time;
  - (xv) any English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall, in respect of a jurisdiction other than England, be deemed to include that which most nearly approximates in that jurisdiction to the English legal term;
  - (xvi) words denoting the singular number shall include the plural and vice versa; and
  - (xvii) "**including**" and "**in particular**" (and other similar expressions) shall be construed as not limiting any general words or expressions in connection with which they are used.
- (b) The determination of the extent to which a rate is "**for a period equal in length**" to an Interest Period shall disregard any inconsistency arising from the last day of that Interest Period being determined pursuant to the terms of this Agreement.
  - (c) Section, Clause and Schedule headings are for ease of reference only and are not to be used for the purposes of construction or interpretation of the Finance Documents.
  - (d) Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under, or in connection with, any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.
  - (e) A Potential Event of Default is "**continuing**" if it has not been remedied or waived and an Event of Default is "**continuing**" if it has not been waived.

### 1.3 Construction of insurance terms

In this Agreement:

"**approved**" means, for the purposes of Clause 23 (*Insurance Undertakings*), approved in writing by the Facility Agent.

"**excess risks**" means, in respect of a Ship, the proportion of claims for general average, salvage and salvage charges not recoverable under the hull and machinery policies in respect of that Ship in consequence of its insured value being less than the value at which that Ship is assessed for the purpose of such claims.

"**obligatory insurances**" means all insurances effected, or which any Borrower is obliged to effect, under Clause 23 (*Insurance Undertakings*) or any other provision of this Agreement or of another Finance Document.

"**policy**" includes a slip, cover note, certificate of entry or other document evidencing the contract of insurance or its terms.

"**protection and indemnity risks**" means the usual risks covered by a protection and indemnity association managed in London, including pollution risks and the proportion (if any) of any

sums payable to any other person or persons in case of collision which are not recoverable under the hull and machinery policies by reason of the incorporation in them of clause 6 of the International Hull Clauses (1/11/02) (1/11/03), clause 8 of the Institute Time Clauses (Hulls) (1/10/83) (1/11/95) or the Institute Amended Running Down Clause (1/10/71) or any equivalent provision.

"war risks" includes the risk of mines and all risks excluded by clause 29 of the International Hull Clauses (1/11/02 or 1/11/03), clause 24 of the Institute Time Clauses (Hulls) (1/11/95) or clause 23 of the Institute Time Clauses (Hulls) (1/10/83).

#### **1.4 Agreed forms of Finance Documents**

References in Clause 1.1 (*Definitions*) to any Finance Document being in "agreed form" are to that Finance Document:

- (a) in a form attached to a certificate dated the same date as this Agreement (and signed by each Borrower and the Facility Agent); or
- (b) in any other form agreed in writing between each Borrower and the Facility Agent acting with the authorisation of the Majority Lenders or, where Clause 43.2 (*All Lender matters*) applies, all the Lenders.

#### **1.5 Third party rights**

- (a) Unless expressly provided to the contrary in a Finance Document, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Act**") to enforce or to enjoy the benefit of any term of this Agreement.
- (b) Subject to Clause 43.3 (*Other exceptions*) but otherwise notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Agreement at any time.
- (c) Any Affiliate, Receiver, Delegate or any other person described in paragraph (d) of Clause 14.2 (*Other indemnities*), paragraph (b) of Clause 30.11 (*Exclusion of liability*), Clause 30.21 (*Role of Reference Banks*), Clause 30.22 (*Third Party Reference Banks*) or paragraph (b) of Clause 31.11 (*Exclusion of liability*) may, subject to this Clause 1.5 (*Third party rights*) and the Third Parties Act, rely on any Clause of this Agreement which expressly confers rights on it.

**SECTION 2**  
**THE FACILITY**

**2 THE FACILITY**

**2.1 The Facility**

Subject to the terms of this Agreement, the Lenders make available to the Borrowers a dollar term loan facility in five Tranches in an aggregate amount not exceeding the Total Commitments. The aggregate amount of \$37,000,000 has been utilised on the relevant Utilisation Dates in respect of the Original Tranches, of which the aggregate amount of \$35,700,000 is outstanding by way of principal at the date of the Deed of Accession, Amendment and Restatement.

**2.2 Finance Parties' rights and obligations**

- (a) The obligations of each Finance Party under the Finance Documents are several. Failure by a Finance Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.
- (b) The rights of each Finance Party under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Finance Party from a Transaction Obligor is a separate and independent debt in respect of which a Finance Party shall be entitled to enforce its rights in accordance with paragraph (c) below. The rights of each Finance Party include any debt owing to that Finance Party under the Finance Documents and, for the avoidance of doubt, any part of the Loan or any other amount owed by a Transaction Obligor which relates to a Finance Party's participation in the Facility or its role under a Finance Document (including any such amount payable to the Facility Agent on its behalf) is a debt owing to that Finance Party by that Transaction Obligor.
- (c) A Finance Party may, except as specifically provided in the Finance Documents, separately enforce its rights under or in connection with the Finance Documents.

**2.3 Borrowers' Agent**

- (a) Each Borrower by its execution of this Agreement appoints the Parent Guarantor to act on its behalf as its agent in relation to the Finance Documents and specifically authorises:
  - (i) the Parent Guarantor on its behalf to supply all information concerning itself contemplated by this Agreement to the Finance Parties and to give all notices and instructions (including any Utilisation Request), to make such agreements and to effect the relevant amendments, supplements and variations capable of being given, made or effected by any Borrower in connection with the Finance Documents notwithstanding that they may affect the Borrower, without further reference to or the consent of that Borrower; and
  - (ii) each Finance Party to give any notice, demand or other communication to that Borrower pursuant to the Finance Documents to the Parent Guarantor,

and in each case each Borrower shall be bound as though that Borrower itself had given the notices and instructions (including, without limitation, any Utilisation Requests) or executed or made the agreements or effected the amendments, supplements or variations, or received the relevant notice, demand or other communication.

- (b) Every act, omission, agreement, undertaking, settlement, waiver, amendment, supplement, variation, notice or other communication given or made by the Parent Guarantor or given to the Parent Guarantor under any Finance Document on behalf of a Borrower or in connection with any Finance Document (whether or not known to any Borrower) shall be binding for all purposes on that Borrower as if that Borrower had expressly made, given or concurred with it. In the event of any conflict between any notices or other communications of the Parent Guarantor and any Borrower, those of the Parent Guarantor shall prevail.

### **3 PURPOSE**

#### **3.1 Purpose**

The Borrowers shall apply or, in the case of the Original Tranches, have applied all amounts borrowed by them under the Facility only for the purpose stated in the preamble (Background) to this Agreement.

#### **3.2 Monitoring**

No Finance Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

### **4 CONDITIONS OF UTILISATION**

#### **4.1 Initial conditions precedent**

The Borrowers may not deliver a Utilisation Request unless the Facility Agent has received all of the documents and other evidence listed in Schedule 2 of Schedule 2 (*Conditions Precedent*) or is satisfied that it will receive them when the Advance is made available, in form and substance satisfactory to the Facility Agent.

#### **4.2 Further conditions precedent**

The Lenders will only be obliged to comply with Clause 5.4 (*Lenders' participation*) if:

- (a) on the date of the relevant Utilisation Request and on the proposed Utilisation Date and before the Advance of a Tranche is made available:
- (i) no Default is continuing or would result from the proposed Advance;
  - (ii) the Repeating Representations to be made by each Transaction Obligor are true;
  - (iii) no event described in paragraph (a) of Clause 7.2 (*Change of control*) has occurred;
- (b) the Facility Agent has received on or before the relevant Utilisation Date, or is satisfied that it will receive when the Advance is made available, all of the documents and other evidence listed in Part B of Schedule 2 (*Conditions Precedent*) relating to the Tranche to which the proposed Advance relates in form and substance satisfactory to the Facility Agent;

#### **4.3 Notification of satisfaction of conditions precedent**

- (a) The Facility Agent shall notify the Borrowers and the Lenders promptly upon being satisfied as to the satisfaction of the conditions precedent referred to in Clause 4.1 (*Initial conditions precedent*) and Clause 4.2 (*Further conditions precedent*).
- (b) Other than to the extent that the Majority Lenders notify the Facility Agent in writing to the contrary before the Facility Agent gives the notification described in paragraph (a) above, the Lenders authorise (but do not require) the Facility Agent to give that notification. The Facility

Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.

**4.4 Waiver of conditions precedent**

If the Majority Lenders, at their discretion, permit a Tranche to be borrowed before any of the conditions precedent referred to in Clause 4.1 (*Initial conditions precedent*) or Clause 4.2 (*Further conditions precedent*) has been satisfied, the Borrowers shall ensure that that condition is satisfied within five Business Days after the relevant Utilisation Date or such later date as the Facility Agent, acting with the authorisation of the Majority Lenders, may agree in writing with the Borrowers.

**4.5 Conditions Subsequent**

The Borrowers undertake to deliver or cause to be delivered to the Facility Agent the additional documents and evidence listed in Part C of Schedule 2 (*Conditions Subsequent*) within the number of Business Days after the Utilisation Date of Ship E as specified therein, in form and substance satisfactory to the Facility Agent.

**SECTION 3**

**UTILISATION**

**5 UTILISATION**

**5.1 Delivery of a Utilisation Request**

- (a) The Borrowers may utilise the Facility by delivery to the Facility Agent of a duly completed Utilisation Request not later than the Specified Time.
- (b) The Borrowers may not deliver more than one Utilisation Request in relation to each Tranche.

**5.2 Completion of the Utilisation Request**

- (a) Each Utilisation Request is irrevocable and will not be regarded as having been duly completed unless:
  - (i) the proposed Utilisation Date is a Business Day within the relevant Availability Period;
  - (ii) the currency and amount of the Utilisation comply with Clause 5.3 (*Currency and amount*);
  - (iii) all applicable deductible items have been completed; and
  - (iv) the proposed Interest Period complies with Clause 9 (*Interest Periods*).
- (b) Only one Advance may be requested in each Utilisation Request.

**5.3 Currency and amount**

- (a) The currency specified in each Utilisation Request must be dollars.
- (b) The amount of the proposed Advance must be an amount which is not more than:
  - (i) in respect of Tranche A, \$13,000,000;
  - (ii) in respect of Tranche B, \$12,000,000;
  - (iii) in respect of Tranche C, \$12,000,000;
  - (iv) in respect of Tranche D, \$11,000,000; and
  - (v) in respect of Tranche E, \$11,000,000.

- (c) The amount of the proposed Advance must be an amount which is not more than the Available Facility.

**5.4 Lenders' participation**

- (a) If the conditions set out in this Agreement have been met, each Lender shall make its participation in the Advance available by the Utilisation Date through its Facility Office.
- (b) The amount of each Lender's participation in each Advance will be equal to the proportion borne by its Available Commitment to the Available Facility immediately before making the Advance.

- (c) The Facility Agent shall notify each Lender of the amount of the Advance and the amount of its participation in the Advance by the Specified Time.

#### **5.5 Cancellation of Commitments**

The Commitments in respect of any Tranche which are unutilised at the end of the Availability Period for such Tranche shall then be cancelled.

#### **5.6 Retentions and payment to third parties**

The Borrowers irrevocably authorise the Facility Agent:

- (a) on each Utilisation Date, to pay to, or for the account of, the Borrower which is to utilise the relevant Tranche the balance of the amounts which the Facility Agent receives from the Lenders in respect of the Advance of that Tranche. That payment shall be made in like funds as the Facility Agent received from the Lenders in respect of the Advance of that Tranche:

(i) to an account to be nominated by the Borrowers reasonably in advance **Provided that** the Facility Agent is satisfied that all "know your customer", anti-money laundering and any other procedures of the Facility Agent or any Lender in relation to that account have been complied with; and

(ii) in like funds as the Facility Agent received from the Lenders in respect of the Advance of that Tranche.

#### **5.7 Disbursement of Advance to third party**

Payment by the Facility Agent under Clause 5.6 (*Retentions and payment to third parties*) to a person other than a Borrower shall constitute the making of the Advance of the Relevant Tranche and the Borrowers shall at that time become indebted, as principal and direct obligors, to each Lender in an amount equal to that Lender's participation in that Tranche.



## SECTION 4

### REPAYMENT, PREPAYMENT AND CANCELLATION

#### 6 REPAYMENT

##### 6.1 Repayment of Loan

Save as previously prepaid or repaid, the Borrowers shall repay the Loan as follows:

- (a) Tranche A shall be repaid by:
  - (i) 20 equal consecutive quarterly instalments, each in an amount of \$450,000 (each an "**Instalment A**"), the first of which shall be repaid on the date falling 3 Months after the Utilisation Date of that Tranche, each subsequent Instalment A shall be repaid at quarterly intervals thereafter and the last Instalment A shall be repaid on the Termination Date in relation to that Tranche; and
  - (ii) a balloon payment in an amount of \$4,000,000, (the "**Balloon Instalment A**" and together with the Instalments A, the "**Repayment Instalments A**"), which shall be repaid together with the last Instalment A on the Termination Date in relation to that Tranche;
- (b) Tranche B shall be repaid by:
  - (i) 20 equal consecutive quarterly instalments, each in an amount of \$400,000 (each an "**Instalment B**"), the first of which shall be repaid on the date falling 3 Months after the Utilisation Date of that Tranche, each subsequent Instalment B shall be repaid at quarterly intervals thereafter and the last Instalment B shall be repaid on the Termination Date in relation to that Tranche; and
  - (ii) a balloon payment in an amount of \$4,000,000, (the "**Balloon Instalment B**" and together with the Instalments B, the "**Repayment Instalments B**"), which shall be repaid together with the last Instalment B on the Termination Date in relation to that Tranche; and
- (c) Tranche C shall be repaid by:
  - (i) 20 equal consecutive quarterly instalments, each in an amount of \$400,000 (each an "**Instalment C**"), the first of which shall be repaid on the date falling 3 Months after the Utilisation Date of that Tranche, each subsequent Instalment C shall be repaid at quarterly intervals thereafter and the last Instalment C shall be repaid on the Termination Date in relation to that Tranche; and
  - (ii) a balloon payment in an amount of \$4,000,000, (the "**Balloon Instalment C**" and together with the Instalments C, the "**Repayment Instalments C**"), which shall be repaid together with the last Instalment C on the Termination Date in relation to that Tranche.
- (d) Tranche D shall be repaid by:
  - (i) 20 equal consecutive quarterly instalments, each in an amount of \$375,000 (each an "**Instalment D**"), the first of which shall be repaid on the date falling 3 Months after the Utilisation Date of that Tranche, each subsequent Instalment D shall be repaid at quarterly intervals thereafter and the last Instalment D shall be repaid on the Termination Date in relation to that Tranche; and

- (ii) a balloon payment in an amount of \$3,500,000 (the "**Balloon Instalment D**" and together with the Instalments D, the "**Repayment Instalments D**") which shall be repaid together with the last Instalment D on the Termination Date in relation to that Tranche.
- (e) Tranche E shall be repaid by:
  - (i) 20 equal consecutive quarterly instalments, each in an amount of \$375,000 (each an "**Instalment E**"), the first of which shall be repaid on the date falling 3 Months after the Utilisation Date of that Tranche, each subsequent Instalment E shall be repaid at quarterly intervals thereafter and the last Instalment E shall be repaid on the Termination Date in relation to that Tranche; and
  - (ii) a balloon payment in an amount of \$3,500,000 (the "**Balloon Instalment E**" and together with: the Balloon Instalment A, the Balloon Instalment B, the Balloon Instalment C, the Balloon Instalment D the "**Balloon Instalments**" and each a "**Balloon Instalment**") and such Balloon instalment E together with the Instalments E, (the "**Repayment Instalments E**") which shall be repaid together with the last Instalment E on the Termination Date in relation to that Tranche.

and each of such Repayment Instalments A, Repayment Instalments B, Repayment Instalments C, Repayment Instalments D and Repayment Instalments E shall be a "**Repayment Instalment**".

## **6.2 Effect of cancellation and prepayment on scheduled repayments**

- (a) If the Borrowers cancel the whole or any part of any Available Commitment in accordance with Clause 7.6 (*Right of repayment and cancellation in relation to a single Lender*) or if the Available Commitment of any Lender is cancelled under Clause 7.1 (*Illegality*) then the Repayment Instalments under each Tranche falling after that cancellation will be reduced by the amount of Available Commitments so cancelled, in inverse order of maturity commencing with the Balloon Instalment of each Tranche.
- (b) If the Borrowers cancel the whole or any part of any Available Commitment in accordance with 7.3 (*Voluntary and automatic cancellation*) or if the whole or part of any Commitment is cancelled pursuant to Clause 5.5 (*Cancellation of Commitments*), the Repayment Instalments for the relevant Tranche for each Repayment Date falling after that cancellation will be reduced by the amount of the Commitments so cancelled, in inverse order of maturity commencing with the Balloon Instalment of that Tranche.
- (c) If any part of the Loan is repaid or prepaid in accordance with Clause 7.6 (*Right of repayment and cancellation in relation to a single Lender*) or Clause 7.1 (*Illegality*) then the Repayment Instalments under each Tranche for each Repayment Date falling after that repayment or prepayment will be reduced by the amount of the Loan so repaid or prepaid, in inverse order of maturity commencing with the Balloon Instalment of each Tranche.
- (d) If any part of the Loan is prepaid in accordance with Clause 7.4 (*Voluntary prepayment of Loan*) or Clause 7.5 (*Mandatory prepayment on sale or Total Loss*) then the amount of the Repayment Instalments for the relevant Tranche for each Repayment Date falling after that repayment or prepayment will be reduced by the amount of the Loan so repaid or prepaid, in inverse order of maturity commencing with the Balloon Instalment of that Tranche.

## **6.3 Termination Date**

On the last Termination Date, the Borrowers shall additionally pay to the Facility Agent for the account of the Finance Parties all other sums then accrued and owing under the Finance Documents.

#### 6.4 Reborrowing

No Borrower may reborrow any part of the Facility which is repaid.

### 7 PREPAYMENT AND CANCELLATION

#### 7.1 Illegality

If it becomes unlawful in any applicable jurisdiction (or due to the unlawfulness of any Affiliate of a Lender) for a Lender to perform any of its obligations as contemplated by this Agreement or to fund or maintain its participation in the Loan or any part thereof:

- (a) that Lender shall promptly notify the Facility Agent upon becoming aware of that event;
- (b) upon the Facility Agent notifying the Borrowers, the Available Commitment of that Lender will be immediately cancelled; and
- (c) the Borrowers shall prepay that Lender's participation in the Loan on the last day of the Interest Period for the Loan occurring after the Facility Agent has notified the Borrowers or, if earlier, the date specified by the Lender in the notice delivered to the Facility Agent (being no earlier than the last day of any applicable grace period permitted by law) and that Lender's corresponding Commitment shall be cancelled in the amount of the participation prepaid.

#### 7.2 Change of control

- (a) If
  - (i) any person or group of persons acting in concert gains directly or indirectly control of the Parent Guarantor other than:
    - (A) Mr. Georgios Giouroukos; or
    - (B) Kelso & Company or its Related Funds; or
  - (ii) Mr. Georgios Giouroukos ceases during the Security Period to hold the position of executive chairman or equivalent executive officer position in the board of directors of the Parent Guarantor other than in case Mr. Georgios Giouroukos dies or becomes permanently incapable of managing his affairs:

then:

- (A) the Parent Guarantor shall promptly notify the Facility Agent upon becoming aware of that event; and
  - (B) if the Majority Lenders so require, the Facility Agent shall, by not less than 10 days' notice to the Borrowers, cancel the Facility and declare the Loan, together with accrued interest, and all other amounts accrued under the Finance Documents immediately due and payable, whereupon the Facility will be cancelled and the Loan and all such outstanding interest and other amounts will become immediately due and payable.
- (b) For the purpose of paragraph (a) above "**control**" means:
    - (i) the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:

- (A) cast, or control (through one or more Affiliates) the casting of, more than 35 per cent. of the maximum number of votes that might be cast at a general meeting of the Parent Guarantor; or
  - (B) appoint or remove all, or the majority, of the directors or other equivalent officers of the Parent Guarantor; or
  - (C) give directions with respect to the operating and financial policies of the Parent Guarantor with which the directors or other equivalent officers of the Parent Guarantor are obliged to comply; and/or
- (ii) the holding beneficially (through one or more Affiliates) of more than 35 per cent. of the issued share capital of the Parent Guarantor (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital).

### 7.3 Voluntary and automatic cancellation

- (a) The Borrowers may, if they give the Facility Agent not less than 5 Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, cancel the whole or any part (being a minimum amount of \$400,000 or such other amount mutually agreed between the Facility Agent and the Borrowers) of the Available Facility. Any cancellation under this Clause 7.3 (*Voluntary and automatic cancellation*) shall reduce the Commitments of the Lenders rateably.
- (b) The unutilised Commitment (if any) of each Lender in respect of a Tranche shall be automatically cancelled at close of business on the date on which the Advance in respect of that Tranche is made available.

### 7.4 Voluntary prepayment of Loan

Subject to paragraph **Error! Reference source not found.** below, the Borrowers may, if they give the Facility Agent not less than 5 Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, prepay the whole or any part of the Loan (but, if in part, being an amount that reduces the amount of the Loan by a minimum amount of \$400,000 or a multiple of that amount).

### 7.5 Mandatory prepayment on sale or Total Loss

- (a) If a Ship is sold (without prejudice to paragraph (a) of Clause 22.14 (*Disposal*)) or becomes a Total Loss, the Borrowers shall prepay on the Relevant Date the Relevant Amount.
- (b) In this Clause 7.5 (*Mandatory prepayment on sale or Total Loss*):

"**Relevant Date**" means:

- (i) in the case of a sale of a Ship, on the date on which the sale is completed by delivery of that Ship to the buyer of that Ship; and
- (ii) in the case of a Total Loss of a Ship, the date falling on the earlier of:
  - (A) the date falling 120 days after the Total Loss Date; and
  - (B) the date of receipt by the Security Agent of the proceeds of insurance relating to such Total Loss.

"**Relevant Amount**" means an amount which is equal to the highest of:

- (i) the Tranche relating to the Ship which has been sold or become a Total Loss;
- (ii) an amount (if any) which after the application of the prepayment to be made pursuant to this Clause 7.5 (*Mandatory prepayment on sale or Total Loss*) results in the Security Cover Ratio being the higher of:
  - (A) the Required Security Cover Ratio; and
  - (B) the percentage which applied immediately prior to the Total Loss or the completion of the sale (as applicable).

#### **7.6 Right of repayment and cancellation in relation to a single Lender**

- (a) If:
  - (i) any sum payable to any Lender by a Transaction Obligor is required to be increased under paragraph (c) of Clause 12.2 (*Tax gross-up*) or under that clause as incorporated by reference or in full in any other Finance Document; or
  - (ii) any Lender claims indemnification from a Borrower under Clause 12.3 (*Tax indemnity*) or Clause 13.1 (*Increased costs*); or
  - (iii) the Facility Agent receives notification from a Relevant Lender under Clause 10.3 (*Market disruption*),

the Borrowers may:

- (A) whilst in the case of sub-paragraphs (i) and (ii) above the circumstance giving rise to the requirement for that increase or indemnification continues; or
- (B) whilst in the case of sub-paragraph (iii) above the situation in relation to the Relevant Lender continues,

give the Facility Agent notice of cancellation of the Commitment of that Lender and their intention to procure the repayment of that Lender's participation in the Loan.

- (b) On receipt of a notice of cancellation referred to in paragraph (a) above, the Commitment of that Lender shall immediately be reduced to zero.
- (c) On the last day of each Interest Period which ends after the Borrowers have given notice of cancellation under paragraph (a) above in relation to a Lender (or, if earlier, the date specified by the Borrowers in that notice), the Borrowers shall repay that Lender's participation in the Loan.

#### **7.7 Restrictions**

- (a) Any notice of cancellation or prepayment given by any Party under this Clause 7 (*Prepayment and Cancellation*) shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made, the amount of that cancellation or prepayment and, if relevant, the part of the Loan to be prepaid or cancelled.
- (b) Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid and, subject to any Break Costs, without premium or penalty.
- (c) No Borrower may reborrow any part of the Facility which is prepaid.

- (d) No Borrower shall repay or prepay all or any part of the Loan or cancel all or any part of the Commitments except at the times and in the manner expressly provided for in this Agreement.
- (e) No amount of the Total Commitments cancelled under this Agreement may be subsequently reinstated.
- (f) If the Facility Agent receives a notice under this Clause 7 (*Prepayment and Cancellation*) it shall promptly forward a copy of that notice to either the Borrowers or the affected Lenders, as appropriate.
- (g) If all or part of any Lender's participation in the Loan is repaid or prepaid, an amount of that Lender's Commitment (equal to the amount of the participation which is repaid or prepaid) will be deemed to be cancelled on the date of repayment or prepayment.

**7.8 Application of prepayments**

Any prepayment of any part of the Loan (other than a prepayment pursuant to Clause 7.1 (*Illegality*) or Clause 7.6 (*Right of repayment and cancellation in relation to a single Lender*)) shall be applied pro rata to each Lender's participation in that part of the Loan.

**SECTION 5**  
**COSTS OF UTILISATION**

**8 INTEREST**

**8.1 Calculation of interest**

The rate of interest on the Loan or any part of the Loan for each Interest Period is the percentage rate per annum which is the aggregate of:

- (a) the Margin; and
- (b) LIBOR.

**8.2 Payment of interest**

- (a) The Borrowers shall pay accrued interest on any part of the Loan on the last day of each Interest Period in relation to that part of the Loan.
- (b) If an Interest Period is longer than three Months, the Borrowers shall also pay interest then accrued any part of the Loan on the dates falling at three Monthly intervals after the first day of the Interest Period in relation to that part of the Loan.

**8.3 Default interest**

- (a) If a Transaction Obligor fails to pay any amount payable by it under a Finance Document on its due date, interest shall accrue on the Unpaid Sum from the due date up to the date of actual payment (both before and after judgment) at a rate which, subject to paragraph (b) below, is 2.00 per cent. per annum higher than the rate which would have been payable if the Unpaid Sum had, during the period of non-payment, constituted part of the Loan in the currency of the Unpaid Sum for successive Interest Periods, each of a duration selected by the Facility Agent. Any interest accruing under this Clause 8.3 (*Default interest*) shall be immediately payable by the Obligor on demand by the Facility Agent.
- (b) If an Unpaid Sum consists of all or part of the Loan which became due on a day which was not the last day of an Interest Period relating to the Loan or that part of the Loan:
  - (i) the first Interest Period for that Unpaid Sum shall have a duration equal to the unexpired portion of the current Interest Period relating to the Loan or that part of the Loan; and
  - (ii) the rate of interest applying to that Unpaid Sum during that first Interest Period shall be 2.00 per cent. per annum higher than the rate which would have applied if that Unpaid Sum had not become due.
- (c) Default interest (if unpaid) arising on an Unpaid Sum will be compounded with the Unpaid Sum at the end of each Interest Period applicable to that Unpaid Sum but will remain immediately due and payable.

**8.4 Notification of rates of interest**

- (a) The Facility Agent shall promptly notify the Lenders and the Borrowers of the determination of a rate of interest under this Agreement.
- (b) The Facility Agent shall promptly notify the Borrowers of each Funding Rate relating to the Loan, any part of the Loan or any Unpaid Sum.

## **9 INTEREST PERIODS**

### **9.1 Selection of Interest Periods**

- (a) The Borrowers may select the Interest Period for each Tranche in the Utilisation Request for that Tranche. Subject to paragraph (f) below and Clause 9.2 (*Changes to Interest Periods*), the Borrowers may select each subsequent Interest Period in respect of a Tranche in a Selection Notice.
- (b) Each Selection Notice is irrevocable and must be delivered to the Facility Agent by the Borrowers not later than the Specified Time.
- (c) If the Borrowers fail to select an Interest Period in the Utilisation Request or fail to deliver a Selection Notice to the Facility Agent in accordance with paragraphs (a) and (b) above, the relevant Interest Period will, subject to paragraph (f) below and Clause 9.2 (*Changes to Interest Periods*), be three Months.
- (d) Subject to this Clause 9 (*Interest Periods*), the Borrowers may select an Interest Period of three or six Months or any other period agreed between the Borrowers and the Facility Agent (acting on the instructions of all the Lenders in their discretion).
- (e) An Interest Period in respect of a Tranche or any part of a Tranche shall not extend beyond the Termination Date in respect of that Tranche.
- (f) In respect of a Repayment Instalment, the Borrowers may request in the relevant Selection Notice that an Interest Period for a part of the relevant Tranche equal to such Repayment Instalment shall end on the Repayment Date relating to it and, subject to paragraph (d) above, select a longer Interest Period for the remaining part of that Tranche.
- (g) The first Interest Period for each Tranche shall start on the first Utilisation Date relating to such Tranche and each subsequent Interest Period shall start on the last day of its preceding Interest Period.
- (h) Except for the purposes of paragraph (f) above and Clause 9.2 (*Changes to Interest Periods*), each Tranche shall have one Interest Period only at any time.

### **9.2 Changes to Interest Periods**

- (a) In respect of a Repayment Instalment, prior to determining the interest rate for the Loan or the relevant part of the Loan, the Facility Agent may establish an Interest Period for a part of the relevant part of the Loan equal to such Repayment Instalment to end on the Repayment Date relating to it and the remaining part of that Tranche shall have the Interest Period selected in the relevant Selection Notice, subject to paragraph (d) of Clause 9.1 (*Selection of Interest Periods*).
- (b) If the Facility Agent makes any change to an Interest Period referred to in this Clause 9.2 (*Changes to Interest Periods*), it shall promptly notify the Borrowers and the Lenders.

### **9.3 Non-Business Days**

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).



## 10 CHANGES TO THE CALCULATION OF INTEREST

### 10.1 Unavailability of Screen Rate

(a) If no Screen Rate is available for LIBOR for:

- (i) dollars; or
- (ii) the Interest Period of the Loan or any part of the Loan and it is not possible to calculate the Interpolated Screen Rate,

the applicable LIBOR shall be the Reference Bank Rate as of the Specified Time and for a period equal in length to the Interest Period of the Loan or that part of the Loan.

(b) If paragraph (a) above applies but no Reference Bank Rate is available for dollars or the relevant Interest Period there shall be no LIBOR or the Loan or that part of the Loan (as applicable) and Clause 10.4 (*Cost of funds*) shall apply to the Loan or that part of the Loan for that Interest Period.

### 10.2 Calculation of Reference Bank Rate

(a) Subject to paragraph (b) below, if LIBOR is to be determined on the basis of a Reference Bank Rate but a Reference Bank does not supply a quotation by the Specified Time, the Reference Bank Rate shall be calculated on the basis of the quotations of the remaining Reference Banks.

(b) If at or about noon on the Quotation Day none or only one of the Reference Banks supplies a quotation, there shall be no Reference Bank Rate for the relevant Interest Period.

### 10.3 Market disruption

If before close of business in London on the Quotation Day for the relevant Interest Period the Facility Agent receives notification from a Lender or Lenders (whose participations in the Loan or the relevant part of the Loan exceed 50 per cent. of the Loan or the relevant part of the Loan as appropriate) (the "**Relevant Lender**") that the cost to it of funding its participation in the Loan or that part of the Loan from whatever source it may reasonably select would be in excess of LIBOR then Clause 10.4 (*Cost of funds*) shall apply to the Loan or that part of the Loan (as applicable) for the relevant Interest Period.

### 10.4 Cost of funds

(a) If this Clause 10.4 (*Cost of funds*) applies, the rate of interest on each Lender's share of the Loan or the relevant part of the Loan for the relevant Interest Period shall be the percentage rate per annum which is the sum of:

- (i) the Margin; and
- (ii) the rate notified to the Facility Agent by that Lender as soon as practicable and in any event before interest is due to be paid in respect of that Interest Period to be that which expresses as a percentage rate per annum the cost to the relevant Lender of funding its participation in the Loan or that part of the Loan from whatever source it may reasonably select.

(b) If this Clause 10.4 (*Cost of funds*) applies and the Facility Agent or the Borrowers so require, the Facility Agent and the Borrowers shall enter into negotiations (for a period of not more than 30 days) with a view to agreeing a substitute basis for determining the rate of interest or (as the case may be) an alternative basis for funding.

- (c) Subject to Clause 43.4 (*Replacement of Screen Rate*), any substitute or alternative basis agreed pursuant to paragraph (b) above shall, with the prior consent of all the Lenders and the Borrowers, be binding on all Parties.
- (d) If paragraph (e) below does not apply and any rate notified to the Facility Agent under sub-paragraph (ii) of paragraph (a) above is less than zero, the relevant rate shall be deemed to be zero.
- (e) If this Clause 10.4 (*Cost of funds*) applies pursuant to Clause 10.3 (*Market disruption*) and:
  - (i) a Lender's Funding Rate is less than LIBOR; or
  - (ii) a Lender does not supply a quotation by the time specified in sub-paragraph (ii) of paragraph (a) above,the cost to that Lender of funding its participation in the Loan or the relevant part of the Loan for that Interest Period shall be deemed, for the purposes of paragraph (a) above, to be LIBOR.

## **10.5 Break Costs**

- (a) The Borrowers shall, within three Business Days of demand by a Finance Party, pay to that Finance Party its Break Costs attributable to all or any part of the Loan or Unpaid Sum being paid by a Borrower on a day other than the last day of an Interest Period for the Loan, the relevant part of the Loan or that Unpaid Sum.
- (b) Each Lender shall, as soon as reasonably practicable after a demand by the Facility Agent, provide a certificate confirming the amount of its Break Costs for any Interest Period in which they accrue.

## **11 FEES**

### **11.1 Commitment fee**

- (a) The Borrowers shall pay to the Facility Agent (for the account of each Lender) a fee computed at the rate of 1.50 per cent. per annum on that Lender's Original Available Commitment for the period commencing on 17 May 2019 (being the date of acceptance of the firm offer letter in relation to the Facility) and ending on the last day of the Availability Period of the Original Tranches (if not earlier, as per provisions of subparagraph (b) (i) below).
- (b) The accrued commitment fee is payable on:
  - (i) the last day of each successive period of three Months which ends during the Availability Period of the Original Tranches, the last payment being due on the Utilisation Date of the last available Original Tranche of the Facility and in any event not later than the last day of the Availability Period of the Original Tranches; and
  - (ii) if cancelled, on the cancelled amount of the relevant Lender's Original Commitment at the time the cancellation is effective.

### **11.2 Arrangement fee**

The Borrowers shall pay to the Arranger a non-refundable arrangement fee in an aggregate amount of \$710,000 as follows:

- (a) \$115,000 has been paid on 16 May 2019 (the receipt of which the Arranger confirms);
- (b) \$115,000 has been paid on the date of this Agreement;

- (c) \$92,000 has been paid on the first Utilisation Date;
- (d) \$92,000 has been paid on the second Utilisation Date;
- (e) \$46,000 has been paid on the third Utilisation Date;
- (f) \$100,000 has been paid on 13 November 2019 (being the date of acceptance by the Parent Guarantor of the firm offer letter in relation to the Deed of Accession, Amendment and Restatement);
- (g) \$75,000 shall be paid on the fourth Utilisation Date; and
- (h) \$75,000 shall be paid on the fifth Utilisation Date.

## SECTION 6

### ADDITIONAL PAYMENT OBLIGATIONS

#### 12 TAX GROSS UP AND INDEMNITIES

##### 12.1 Definitions

(a) In this Agreement:

**"Protected Party"** means a Finance Party which is or will be subject to any liability, or required to make any payment, for or on account of Tax in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document.

**"Tax Credit"** means a credit against, relief or remission for, or repayment of any Tax.

**"Tax Deduction"** means a deduction or withholding for or on account of Tax from a payment under a Finance Document, other than a FATCA Deduction.

**"Tax Payment"** means either the increase in a payment made by an Obligor to a Finance Party under Clause 12.2 (*Tax gross-up*) or a payment under Clause 12.3 (*Tax indemnity*).

(b) Unless a contrary indication appears, in this Clause 12 (*Tax Gross Up and Indemnities*) reference to "determines" or "determined" means a determination made in the absolute discretion of the person making the determination.

##### 12.2 Tax gross-up

(a) Each Obligor shall make all payments to be made by it without any Tax Deduction, unless a Tax Deduction is required by law.

(b) The Borrowers shall promptly upon becoming aware that an Obligor must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Facility Agent accordingly. Similarly, a Lender shall notify the Facility Agent on becoming so aware in respect of a payment payable to that Lender. If the Facility Agent receives such notification from a Lender it shall notify the Borrowers and that Obligor.

(c) If a Tax Deduction is required by law to be made by an Obligor, the amount of the payment due from that Obligor shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.

(d) If an Obligor is required to make a Tax Deduction, that Obligor shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.

(e) Within 30 days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Obligor making that Tax Deduction shall deliver to the Facility Agent for the Finance Party entitled to the payment evidence reasonably satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

##### 12.3 Tax indemnity

(a) The Obligors shall (within three Business Days of demand by the Facility Agent) pay to a Protected Party an amount equal to the loss, liability or cost which that Protected Party

determines will be or has been (directly or indirectly) suffered for or on account of Tax by that Protected Party in respect of a Finance Document.

- (b) Paragraph (a) above shall not apply:
  - (i) with respect to any Tax assessed on a Finance Party:
    - (A) under the law of the jurisdiction in which that Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Finance Party is treated as resident for tax purposes; or
    - (B) under the law of the jurisdiction in which that Finance Party's Facility Office is located in respect of amounts received or receivable in that jurisdiction,  
  
if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by that Finance Party; or
  - (ii) to the extent a loss, liability or cost:
    - (A) is compensated for by an increased payment under Clause 12.2 (*Tax gross-up*); or
    - (B) relates to a FATCA Deduction required to be made by a Party.
- (c) A Protected Party making, or intending to make, a claim under paragraph (a) above shall promptly notify the Facility Agent of the event which will give, or has given, rise to the claim, following which the Facility Agent shall notify the Obligors.
- (d) A Protected Party shall, on receiving a payment from an Obligor under this Clause 12.3 (*Tax indemnity*), notify the Facility Agent.

#### **12.4 Tax Credit**

If an Obligor makes a Tax Payment and the relevant Finance Party determines that:

- (a) a Tax Credit is attributable to an increased payment of which that Tax Payment forms part, to that Tax Payment or to a Tax Deduction in consequence of which that Tax Payment was received; and
- (b) that Finance Party has obtained and utilised that Tax Credit,

the Finance Party shall pay an amount to the Obligor which that Finance Party determines will leave it (after that payment) in the same after-Tax position as it would have been in had the Tax Payment not been required to be made by the Obligor.

#### **12.5 Stamp taxes**

The Obligors shall pay and, within three Business Days of demand, indemnify each Secured Party against any cost, loss or liability which that Secured Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document.

#### **12.6 VAT**

- (a) All amounts expressed to be payable under a Finance Document by any Party to a Finance Party which (in whole or in part) constitute the consideration for any supply for VAT purposes are deemed to be exclusive of any VAT which is chargeable on that supply, and accordingly, subject to paragraph (b) below, if VAT is or becomes chargeable on any supply made by any

Finance Party to any Party under a Finance Document and such Finance Party is required to account to the relevant tax authority for the VAT, that Party must pay to such Finance Party (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of the VAT (and such Finance Party must promptly provide an appropriate VAT invoice to that Party).

- (b) If VAT is or becomes chargeable on any supply made by any Finance Party (the "**Supplier**") to any other Finance Party (the "**Recipient**") under a Finance Document, and any Party other than the Recipient (the "**Relevant Party**") is required by the terms of any Finance Document to pay an amount equal to the consideration for that supply to the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):
  - (i) (where the Supplier is the person required to account to the relevant tax authority for the VAT) the Relevant Party must also pay to the Supplier (at the same time as paying that amount) an additional amount equal to the amount of the VAT. The Recipient must (where this sub-paragraph (i) applies) promptly pay to the Relevant Party an amount equal to any credit or repayment the Recipient receives from the relevant tax authority which the Recipient reasonably determines relates to the VAT chargeable on that supply; and
  - (ii) (where the Recipient is the person required to account to the relevant tax authority for the VAT) the Relevant Party must promptly, following demand from the Recipient, pay to the Recipient an amount equal to the VAT chargeable on that supply but only to the extent that the Recipient reasonably determines that it is not entitled to credit or repayment from the relevant tax authority in respect of that VAT.
- (c) Where a Finance Document requires any Party to reimburse or indemnify a Finance Party for any cost or expense, that Party shall reimburse or indemnify (as the case may be) such Finance Party for the full amount of such cost or expense, including such part of it as represents VAT, save to the extent that such Finance Party reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority.
- (d) Any reference in this Clause 12.6 (VAT) to any Party shall, at any time when that Party is treated as a member of a group or unity (or fiscal unity) for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the person who is treated at that time as making the supply, or (as appropriate) receiving the supply, under the grouping rules provided for in Article 11 of Council Directive 2006/112/EC (or as implemented by the relevant member state of the European Union) so that a reference to a Party shall be construed as a reference to that Party or the relevant group or unity (or fiscal unity) of which that Party is a member for VAT purposes at the relevant time or the relevant representative member (or representative or head) of that group or unity at the relevant time (as the case may be).
- (e) In relation to any supply made by a Finance Party to any Party under a Finance Document, if reasonably requested by such Finance Party, that Party must promptly provide such Finance Party with details of that Party's VAT registration and such other information as is reasonably requested in connection with such Finance Party's VAT reporting requirements in relation to such supply.

## **12.7 FATCA Information**

- (a) Subject to paragraph (c) below, each Party shall, within ten Business Days of a reasonable request by another Party:
  - (i) confirm to that other Party whether it is:
    - (A) a FATCA Exempt Party; or

- (B) not a FATCA Exempt Party; and
  - (ii) supply to that other Party such forms, documentation and other information relating to its status under FATCA as that other Party reasonably requests for the purposes of that other Party's compliance with FATCA; and
  - (iii) supply to that other Party such forms, documentation and other information relating to its status as that other Party reasonably requests for the purposes of that other Party's compliance with any other law, regulation or exchange of information regime.
- (b) If a Party confirms to another Party pursuant to sub-paragraph (i) of paragraph (a) above that it is a FATCA Exempt Party and it subsequently becomes aware that it is not, or has ceased to be a FATCA Exempt Party, that Party shall notify that other Party reasonably promptly.
- (c) Paragraph (a) above shall not oblige any Finance Party to do anything and sub-paragraph (iii) of paragraph (a) above shall not oblige any other Party to do anything which would or might in its reasonable opinion constitute a breach of:
- (i) any law or regulation;
  - (ii) any fiduciary duty; or
  - (iii) any duty of confidentiality.
- (d) If a Party fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with sub-paragraphs (i) or (ii) of paragraph (a) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.
- (e) If a Borrower is a US Tax Obligor, or the Facility Agent reasonably believes that its obligations under FATCA or any other applicable law or regulation require it, each Lender shall, within ten Business Days of:
- (i) where a Borrower is a US Tax Obligor and the relevant Lender is an Original Lender, the date of this Agreement;
  - (ii) where a Borrower is a US Tax Obligor on a Transfer Date and the relevant Lender is a New Lender, the relevant Transfer Date; or
  - (iii) where a Borrower is not a US Tax Obligor, the date of a request from the Facility Agent,
- supply to the Facility Agent:
- (iv) a withholding certificate on Form W-8, Form W-9 or any other relevant form; or
  - (v) any withholding statement or other document, authorisation or waiver as the Facility Agent may require to certify or establish the status of such Lender under FATCA or that other law or regulation.
- (f) The Facility Agent shall provide any withholding certificate, withholding statement, document, authorisation or waiver it receives from a Lender pursuant to paragraph (e) above to the Borrowers.
- (g) If any withholding certificate, withholding statement, document, authorisation or waiver provided to the Facility Agent by a Lender pursuant to paragraph (e) above is or becomes materially inaccurate or incomplete, that Lender shall promptly update it and provide such

updated withholding certificate, withholding statement, document, authorisation or waiver to the Facility Agent unless it is unlawful for the Lender to do so (in which case the Lender shall promptly notify the Facility Agent). The Facility Agent shall provide any such updated withholding certificate, withholding statement, document, authorisation or waiver to the Borrowers.

- (h) The Facility Agent may rely on any withholding certificate, withholding statement, document, authorisation or waiver it receives from a Lender pursuant to paragraph (e) or (g) above without further verification. The Facility Agent shall not be liable for any action taken by it under or in connection with paragraphs (e), (f) or (g) above.

## **12.8 FATCA Deduction**

- (a) Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.
- (b) Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction), notify the Party to whom it is making the payment and, in addition, shall notify each Obligor and the Facility Agent and the Facility Agent shall notify the other Finance Parties.

## **13 INCREASED COSTS**

### **13.1 Increased costs**

- (a) Subject to Clause 13.3 (*Exceptions*), the Borrowers shall, within three Business Days of a demand by the Facility Agent, pay for the account of a Finance Party the amount of any Increased Costs incurred by that Finance Party or any of its Affiliates as a result of:
- (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation; or
  - (ii) compliance with any law or regulation made,
- in each case after the date of this Agreement; or
- (iii) the implementation, application of or compliance with Basel III or CRD IV or any law or regulation that implements or applies Basel III or CRD IV.
- (b) In this Agreement:
- (i) **"Basel III"** means:
    - (A) the agreements on capital requirements, a leverage ratio and liquidity standards contained in "Basel III: A global regulatory framework for more resilient banks and banking systems", "Basel III: International framework for liquidity risk measurement, standards and monitoring" and "Guidance for national authorities operating the countercyclical capital buffer" published by the Basel Committee on Banking Supervision in December 2010, each as amended, supplemented or restated;
    - (B) the rules for global systemically important banks contained in "Global systemically important banks: assessment methodology and the additional loss absorbency requirement - Rules text" published by the Basel Committee on Banking Supervision in November 2011, as amended, supplemented or restated; and



(C) any further guidance or standards published by the Basel Committee on Banking Supervision relating to "Basel III".

(ii) "CRD IV" means:

(A) Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending regulation (EU) No. 648/2012;

(B) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC; and

(C) any other law or regulation which implements Basel III.

(iii) "Increased Costs" means:

(A) a reduction in the rate of return from the Facility or on a Finance Party's (or its Affiliate's) overall capital;

(B) an additional or increased cost; or

(C) a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by a Finance Party or any of its Affiliates to the extent that it is attributable to that Finance Party having entered into its Commitment or funding or performing its obligations under any Finance Document.

### 13.2 Increased cost claims

(a) A Finance Party intending to make a claim pursuant to Clause 13.1 (*Increased costs*) shall notify the Facility Agent of the event giving rise to the claim, following which the Facility Agent shall promptly notify the Borrowers.

(b) Each Finance Party shall, as soon as practicable after a demand by the Facility Agent, provide a certificate confirming the amount of its Increased Costs.

### 13.3 Exceptions

Clause 13.1 (*Increased costs*) does not apply to the extent any Increased Cost is:

(a) attributable to a Tax Deduction required by law to be made by an Obligor;

(b) attributable to a FATCA Deduction required to be made by a Party;

(c) compensated for by Clause 12.3 (*Tax indemnity*) (or would have been compensated for under Clause 12.3 (*Tax indemnity*) but was not so compensated solely because any of the exclusions in paragraph (b) of Clause 12.3 (*Tax indemnity*) applied);

(d) compensated for by any payment made pursuant to Clause 14.3 (*Mandatory Cost*); or

(e) attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation.

## 14 OTHER INDEMNITIES

### 14.1 Currency indemnity

- (a) If any sum due from an Obligor under the Finance Documents (a "**Sum**"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "**First Currency**") in which that Sum is payable into another currency (the "**Second Currency**") for the purpose of:
- (i) making or filing a claim or proof against that Obligor; or
  - (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

that Obligor shall, as an independent obligation, on demand, indemnify each Secured Party to which that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

- (b) Each Obligor waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

#### **14.2 Other indemnities**

- (a) Each Obligor shall, on demand, indemnify each Secured Party against any cost, loss or liability incurred by it as a result of:
- (i) the occurrence of any Event of Default;
  - (ii) a failure by a Transaction Obligor to pay any amount due under a Finance Document on its due date, including without limitation, any cost, loss or liability arising as a result of Clause 33 (*Sharing among the Finance Parties*);
  - (iii) funding, or making arrangements to fund, its participation in an Advance requested by the Borrowers in the Utilisation Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by that Secured Party alone); or
  - (iv) the Loan (or part of the Loan) not being prepaid in accordance with a notice of prepayment given by the Borrowers.
- (b) Each Obligor shall, on demand, indemnify each Finance Party, each Affiliate of a Finance Party and each officer or employee of a Finance Party or its Affiliate (each such person for the purposes of this Clause 14.2 (*Other indemnities*) an "**Indemnified Person**"), against any cost, loss or liability incurred by that Indemnified Person pursuant to or in connection with any litigation, arbitration or administrative proceedings or regulatory enquiry, in connection with or arising out of the entry into and the transactions contemplated by the Finance Documents, having the benefit of any Security constituted by the Finance Documents or which relates to the condition or operation of, or any incident occurring in relation to, any Ship unless such cost, loss or liability is caused by the gross negligence or wilful misconduct of that Indemnified Person.
- (c) Without limiting, but subject to any limitations set out in paragraph (b) above, the indemnity in paragraph (b) above shall cover any cost, loss or liability incurred by each Indemnified Person in any jurisdiction:
- (i) arising or asserted under or in connection with any law relating to safety at sea, the ISM Code, any Environmental Law or any Sanctions; or
  - (ii) in connection with any Environmental Claim.

- (d) Any Affiliate or any officer or employee of a Finance Party or of any of its Affiliates may rely on this Clause 14.2 (*Other indemnities*) subject to Clause 1.5 (*Third party rights*) and the provisions of the Third Parties Act.

#### **14.3 Mandatory Cost**

Each Borrower shall, on demand by the Facility Agent, pay to the Facility Agent for the account of the relevant Lender, such amount which any Lender certifies in a notice to the Facility Agent to be its good faith determination of the amount necessary to compensate it for complying with:

- (a) in the case of a Lender lending from a Facility Office in a Participating Member State, the minimum reserve requirements (or other requirements having the same or similar purpose) of the European Central Bank or any other authority or agency which replaces all or any of its functions in respect of loans made from that Facility Office; and
- (b) in the case of any Lender lending from a Facility Office in the United Kingdom, any reserve asset, special deposit or liquidity requirements (or other requirements having the same or similar purpose) of the Bank of England (or any other governmental authority or agency) and/or paying any fees to the Financial Conduct Authority and/or the Prudential Regulation Authority (or any other governmental authority or agency which replaces all or any of their functions),

which, in each case, is referable to that Lender's participation in the Loan.

#### **14.4 Indemnity to the Facility Agent**

Each Obligor shall, on demand, indemnify the Facility Agent against:

- (a) any cost, loss or liability incurred by the Facility Agent (acting reasonably) as a result of:
- (i) investigating any event which it reasonably believes is a Default; or
  - (ii) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised; or
  - (iii) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under the Finance Documents; and
- (b) any cost, loss or liability incurred by the Facility Agent (otherwise than by reason of the Facility Agent's gross negligence or wilful misconduct) or, in the case of any cost, loss or liability pursuant to Clause 34.11 (*Disruption to Payment Systems etc.*) notwithstanding the Facility Agent's negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Facility Agent in acting as Facility Agent under the Finance Documents.

#### **14.5 Indemnity to the Security Agent**

- (a) Each Obligor shall, on demand, indemnify the Security Agent and every Receiver and Delegate against any cost, loss or liability incurred by any of them:
- (i) in relation to or as a result of:
    - (A) any failure by a Borrower to comply with its obligations under Clause 16 (*Costs and Expenses*);
    - (B) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;

- (C) the taking, holding, protection or enforcement of the Finance Documents and the Transaction Security;
  - (D) the exercise of any of the rights, powers, discretions, authorities and remedies vested in the Security Agent and each Receiver and Delegate by the Finance Documents or by law;
  - (E) any default by any Transaction Obligor or any Approved Manager in the performance of any of the obligations expressed to be assumed by it in the Finance Documents;
  - (F) any action by any Transaction Obligor or any Approved Manager which vitiates, reduces the value of, or is otherwise prejudicial to, the Transaction Security; and
  - (G) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under the Finance Documents.
- (ii) acting as Security Agent, Receiver or Delegate under the Finance Documents or which otherwise relates to any of the Security Property or the performance of the terms of this Agreement or the other Finance Documents (otherwise, in each case, than by reason of the relevant Security Agent's, Receiver's or Delegate's gross negligence or wilful misconduct).
- (b) The Security Agent and every Receiver and Delegate may, in priority to any payment to the Secured Parties, indemnify itself out of the Security Assets in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this Clause 14.5 (*Indemnity to the Security Agent*) and shall have a lien on the Transaction Security and the proceeds of the enforcement of the Transaction Security for all monies payable to it.

## **15 MITIGATION BY THE FINANCE PARTIES**

### **15.1 Mitigation**

- (a) Each Finance Party shall, in consultation with the Borrowers, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 7.1 (*Illegality*), Clause 12 (*Tax Gross Up and Indemnities*), Clause 13 (*Increased Costs*) or paragraph (a) of Clause 14.3 (*Mandatory Cost*) including (but not limited to) transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office.
- (b) Paragraph (a) above does not in any way limit the obligations of any Transaction Obligor or any Approved Manager under the Finance Documents.

### **15.2 Limitation of liability**

- (a) Each Obligor shall, on demand, indemnify each Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of steps taken by it under Clause 15.1 (*Mitigation*).
- (b) A Finance Party is not obliged to take any steps under Clause 15.1 (*Mitigation*) if either:
- (i) a Default has occurred and is continuing; or
  - (ii) in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.

## **16 COSTS AND EXPENSES**

### **16.1 Transaction expenses**

The Obligors shall, within 30 days of demand, pay the Facility Agent, the Security Agent and the Arranger the amount of all costs and expenses (including legal fees) reasonably incurred by any Secured Party in connection with the negotiation, preparation, printing, execution, syndication and perfection of:

- (a) this Agreement and any other documents referred to in this Agreement or in a Security Document; and
- (b) any other Finance Documents executed after the date of this Agreement.

### **16.2 Amendment costs**

If:

- (a) a Transaction Obligor requests an amendment, waiver or consent; or
- (b) an amendment is required pursuant to Clause 34.9 (*Change of currency*); or
- (c) a Transaction Obligor requests, and the Security Agent agrees to, the release of all or any part of the Security Assets from the Transaction Security,

the Obligors shall, within 30 days of demand, reimburse each of the Facility Agent and the Security Agent for the amount of all costs and expenses (including legal fees) reasonably incurred by each Secured Party in responding to, evaluating, negotiating or complying with that request or requirement.

### **16.3 Enforcement and preservation costs**

- (a) The Obligors shall, within 30 days of demand, pay to each Secured Party the amount of all costs and expenses (including legal fees) (supported, if available, by documentary evidence) incurred by that Secured Party in connection with the enforcement of, or the preservation of any rights under, any Finance Document or the Transaction Security and with any proceedings instituted by or against that Secured Party as a consequence of it entering into a Finance Document, taking or holding the Transaction Security, or enforcing those rights.
- (b) The Obligors shall, within 30 days of demand, pay to each Finance Party and each other Secured Party the amount of all sums (supported, if available, by documentary evidence) which that Finance Party or other Secured Party may pay or become actually or contingently liable for on account of a Borrower in connection with a Ship (whether alone or jointly or jointly and severally with any other person) including (without limitation) all sums which that Finance Party or other Secured Party may pay or guarantees which it may give in respect of the Insurances, any expenses incurred by that Finance Party or other Secured Party in connection with the maintenance or repair of that Ship or in discharging any lien, bond or other claim relating in any way to that Ship, and any sums which that Finance Party or other Secured Party may pay or guarantees which it may give to procure the release of that Ship from arrest or detention.

#### **16.4 Permitted deductions by Facility Agent**

Notwithstanding any other provision of this Agreement or any other Finance Document, each Borrower hereby irrevocably authorises the Facility Agent to deduct from the Earnings Accounts (or any one of them) costs and expenses payable pursuant to Clause 16 (*Cost and Expenses*), if such costs and expenses are not paid within the requisite time frames set out above in this Clause 16 (*Cost and Expenses*).

## SECTION 7

### GUARANTEES AND JOINT AND SEVERAL LIABILITY OF BORROWERS

#### 17 GUARANTEE AND INDEMNITY

##### 17.1 Guarantee and indemnity

The Parent Guarantor irrevocably and unconditionally:

- (a) guarantees to each Finance Party punctual performance by each other Obligor of all such other Obligor's obligations under the Finance Documents;
- (b) undertakes with each Finance Party that whenever another Obligor does not pay any amount when due under or in connection with any Finance Document, the Parent Guarantor shall immediately on demand by the Facility Agent pay that amount as if it were the principal obligor; and
- (c) agrees with each Finance Party that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify that Finance Party immediately on demand by the Facility Agent against any cost, loss or liability it incurs as a result of another Obligor not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under any Finance Document on the date when it would have been due. The amount payable by the Parent Guarantor under this indemnity will not exceed the amount it would have had to pay under this Clause 17 (*Guarantee and Indemnity*) if the amount claimed had been recoverable on the basis of a guarantee.

##### 17.2 Continuing guarantee

This guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by any Obligor under the Finance Documents, regardless of any intermediate payment or discharge in whole or in part.

##### 17.3 Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is made by a Secured Party in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of the Parent Guarantor under this Clause 17 (*Guarantee and Indemnity*) will continue or be reinstated as if the discharge, release or arrangement had not occurred.

##### 17.4 Waiver of defences

The obligations of the Parent Guarantor under this Clause 17 (*Guarantee and Indemnity*) and in respect of any Transaction Security will not be affected or discharged by an act, omission, matter or thing which, but for this Clause 17.4 (*Waiver of defences*), would reduce, release or prejudice any of its obligations under this Clause 17 (*Guarantee and Indemnity*) or in respect of any Transaction Security (without limitation and whether or not known to it or any Secured Party) including:

- (a) any time, waiver or consent granted to, or composition with, any Transaction Obligor or other person;
- (b) the release of any other Transaction Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;

- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect or delay in perfecting, or refusal or neglect to take up or enforce, or delay in taking or enforcing any rights against, or security over assets of, any Transaction Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Finance Document or any other document or security including, without limitation, any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security; or
- (g) any insolvency or similar proceedings.

#### **17.5 Immediate recourse**

- (a) The Parent Guarantor waives any right it may have of first requiring any Secured Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person (including without limitation to commence any proceedings under any Finance Document or to enforce any Transaction Security) before claiming or commencing proceedings under this Clause 17 (*Guarantee and Indemnity*). This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.
- (b) The Parent Guarantor acknowledges the right of the Facility Agent pursuant to Clause 27.19 (*Acceleration*) to enforce or direct the Security Agent to enforce or exercise any or all of its rights, remedies powers or discretions under any guarantee or indemnity contained in this Agreement.

#### **17.6 Appropriations**

Until all amounts which may be or become payable by the Transaction Obligors under or in connection with the Finance Documents have been irrevocably paid in full, each Secured Party (or any trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by that Secured Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Parent Guarantor shall not be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any moneys received from the Parent Guarantor or on account of the Parent Guarantor's liability under this Clause 17 (*Guarantee and Indemnity*).

#### **17.7 Deferral of Parent Guarantor's rights**

All rights which the Parent Guarantor at any time has (whether in respect of this guarantee, a mortgage or any other transaction) against the Borrower, any other Transaction Obligor or their respective assets shall be fully subordinated to the rights of the Secured Parties under the Finance Documents and until the end of the Security Period and unless the Facility Agent otherwise directs, the Parent Guarantor will not exercise any rights which it may have (whether in respect of any Finance Document to which it is a Party or any other transaction) by reason of performance by it of its obligations under the Finance Documents or by reason



of any amount being payable, or liability arising, under this Clause 17 (*Guarantee and Indemnity*):

- (a) to be indemnified by a Transaction Obligor;
- (b) to claim any contribution from any third party providing security for, or any other guarantor of, any Transaction Obligor's obligations under the Finance Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Secured Party;
- (d) to bring legal or other proceedings for an order requiring any Transaction Obligor to make any payment, or perform any obligation, in respect of which the Parent Guarantor has given a guarantee, undertaking or indemnity under Clause 17 (*Guarantee and Indemnity*);
- (e) to exercise any right of set-off against any Transaction Obligor; and/or
- (f) to claim or prove as a creditor of any Transaction Obligor in competition with any Secured Party.

If the Parent Guarantor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Secured Parties by the Transaction Obligors under or in connection with the Finance Documents to be repaid in full on trust for the Secured Parties and shall promptly pay or transfer the same to the Facility Agent or as the Facility Agent may direct for application in accordance with Clause 34 (*Payment Mechanics*).

#### **17.8 Additional security**

This guarantee and any other Security given by the Parent Guarantor is in addition to and is not in any way prejudiced by, and shall not prejudice, any other guarantee or Security or any other right of recourse now or subsequently held by any Secured Party or any right of set-off or netting or right to combine accounts in connection with the Finance Documents.

#### **17.9 Applicability of provisions of Guarantee to other Security**

Clauses 17.2 (*Continuing guarantee*), 17.3 (*Reinstatement*), 17.4 (*Waiver of defences*), 17.5 (*Immediate recourse*), 17.6 (*Appropriations*), 17.7 (*Deferral of Parent Guarantor's rights*) and 17.8 (*Additional security*) shall apply, with any necessary modifications, to any Security which the Parent Guarantor creates (whether at the time at which it signs this Agreement or at any later time) to secure the Secured Liabilities or any part of them.

### **18 JOINT AND SEVERAL LIABILITY OF THE BORROWERS**

#### **18.1 Joint and several liability**

All liabilities and obligations of the Borrowers under this Agreement shall, whether expressed to be so or not, be joint and several.

#### **18.2 Waiver of defences**

The liabilities and obligations of a Borrower shall not be impaired by:

- (a) this Agreement being or later becoming void, unenforceable or illegal as regards any other Borrower;

- (b) any Lender or the Security Agent entering into any rescheduling, refinancing or other arrangement of any kind with any other Borrower;
- (c) any Lender or the Security Agent releasing any other Borrower or any Security created by a Finance Document; or
- (d) any time, waiver or consent granted to, or composition with any other Borrower or other person;
- (e) the release of any other Borrower or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (f) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any other Borrower or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (g) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any other Borrower or any other person;
- (h) any amendment, novation, supplement, extension, restatement (however fundamental, and whether or not more onerous) or replacement of a Finance Document or any other document or security including, without limitation, any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or security;
- (i) any unenforceability, illegality or invalidity of any obligation or any person under any Finance Document or any other document or security; or
- (j) any insolvency or similar proceedings.

### **18.3 Principal Debtor**

Each Borrower declares that it is and will, throughout the Security Period, remain a principal debtor for all amounts owing under this Agreement and the Finance Documents and no Borrower shall, in any circumstances, be construed to be a surety for the obligations of any other Borrower under this Agreement.

### **18.4 Borrower restrictions**

- (a) Subject to paragraph (b) below, during the Security Period no Borrower shall:
  - (i) claim any amount which may be due to it from any other Borrower whether in respect of a payment made under, or matter arising out of, this Agreement or any Finance Document, or any matter unconnected with this Agreement or any Finance Document; or
  - (ii) take or enforce any form of security from any other Borrower for such an amount, or in any way seek to have recourse in respect of such an amount against any asset of any other Borrower; or
  - (iii) set off such an amount against any sum due from it to any other Borrower; or
  - (iv) prove or claim for such an amount in any liquidation, administration, arrangement or similar procedure involving any other Borrower; or
  - (v) exercise or assert any combination of the foregoing.

- (b) If during the Security Period, the Facility Agent, by notice to a Borrower, requires it to take any action referred to in paragraph (a) above in relation to any other Borrower, that Borrower shall take that action as soon as practicable after receiving the Facility Agent's notice.

**18.5 Deferral of Borrowers' rights**

Until all amounts which may be or become payable by the Borrowers under or in connection with the Finance Documents have been irrevocably paid in full and unless the Facility Agent otherwise directs, no Borrower will exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents:

- (a) to be indemnified by any other Borrower; or
- (b) to claim any contribution from any other Borrower in relation to any payment made by it under the Finance Documents.

## SECTION 8

### REPRESENTATIONS, UNDERTAKINGS AND EVENTS OF DEFAULT

#### 19 REPRESENTATIONS

##### 19.1 General

- (a) Each Obligor (other than the Additional Borrowers) makes the representations and warranties set out in this Clause 19 (*Representations*) to each Finance Party on the date of this Agreement.
- (b) Each Additional Borrower makes the representations and warranties set out in this Clause 19 (*Representations*) to each Finance Party on the date of the Deed of Accession, Amendment and Restatement.

##### 19.2 Status

- (a) It is, in the case of each Borrower, a limited liability company duly formed or, in the case of the Parent Guarantor, a corporation duly incorporated, and validly existing in good standing under the law of its Original Jurisdiction.
- (b) It has the power to own its assets and carry on its business as it is being conducted.

##### 19.3 Share capital, membership interests and ownership

- (a) The aggregate number of limited liability company interests that each Borrower is authorised to issue, expressed in terms of number of shares, is 500 shares, all of which (being 100 per cent. of its limited liability company interests) have been issued to the Parent Guarantor.
- (b) The aggregate number of shares of registered stock that the Parent Guarantor is authorised to issue is 250,000,000 registered shares consisting of 249,000,000 registered common shares comprised of 214,000 Class A common shares (of which 9,942,950 are issued and outstanding), 20,000,000 Class B common shares and 15,000,000 Class C common shares, each with a par value of one United States cent (\$0.01) per share and 1,000,000 registered preferred shares, each with a par value of one United States cent (\$0.01). The Parent Guarantor has authorized 44,000 Series B Preferred shares (of which 14,000 are issued and outstanding) and 250,000 Series C Preferred Shares (of which 250,000 are issuing and outstanding).
- (c) The legal title to and beneficial interest in the limited liability company interests in each Borrower is held by the Parent Guarantor free of any Security other than Permitted Security or any other claim.
- (d) None of the limited liability company interests in any Borrower is subject to any option to purchase, pre-emption rights or similar rights.

##### 19.4 Binding obligations

The obligations expressed to be assumed by it in each Transaction Document to which it is a party are legal, valid, binding and enforceable obligations.

##### 19.5 Validity, effectiveness and ranking of Security

- (a) Each Finance Document to which it and an Approved Manager is a party does now or, as the case may be, will upon execution and delivery create the Security it purports to create over

any assets to which such Security, by its terms, relates, and such Security will, when created or intended to be created, be valid and effective.

- (b) No third party has or will have any Security (except for Permitted Security) over any assets that are the subject of any Transaction Security granted by it.
- (c) The Transaction Security granted by it to the Security Agent or any other Secured Party has or will when created or intended to be created have first ranking priority or such other priority it is expressed to have in the Finance Documents and is not subject to any prior ranking or *pari passu* ranking security.
- (d) No concurrence, consent or authorisation of any person is required for the creation of or otherwise in connection with any Transaction Security.

#### **19.6 Non-conflict with other obligations**

The entry into and performance by it of, and the transactions contemplated by, each Transaction Document to which it is a party do not and will not conflict with:

- (a) any law or regulation applicable to it;
- (b) its constitutional documents; or
- (c) any agreement or instrument binding upon it or any other Transaction Obligor or an Approved Manager or any of its assets of any other Transaction Obligor's or an Approved Manager's assets or constitute a default or termination event (however described) under any such agreement or instrument.

#### **19.7 Power and authority**

- (a) It has the power to enter into, perform and deliver, and has taken all necessary action to authorise:
  - (i) its entry into, performance and delivery of, each Transaction Document to which it is or will be a party and the transactions contemplated by those Transaction Documents; and
  - (ii) in the case of each Borrower, its registration of the relevant Ship under the Approved Flag for that Ship;
- (b) No limit on its powers will be exceeded as a result of the borrowing, granting of security or giving of guarantees or indemnities contemplated by the Transaction Documents to which it is a party.

#### **19.8 Validity and admissibility in evidence**

All Authorisations required or desirable:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Transaction Documents to which it is a party; and
- (b) to make the Transaction Documents to which it is a party admissible in evidence in its Relevant Jurisdictions, have been obtained or effected and are in full force and effect.

#### **19.9 Governing law and enforcement**

- (a) The choice of governing law of each Transaction Document to which it is a party will be recognised and enforced in its Relevant Jurisdictions.
- (b) Any judgment obtained in relation to a Transaction Document to which it is a party in the jurisdiction of the governing law of that Transaction Document will be recognised and enforced in its Relevant Jurisdictions.

**19.10 Insolvency**

No:

- (a) corporate action, legal proceeding or other procedure or step described in paragraph (a) of Clause 27.8 (*Insolvency proceeding*); or
- (b) creditors' process described in Clause 27.9 (*Creditors' process*),

has been taken or, to its knowledge, threatened in relation to any other Transaction Obligor or any Approved Manager; and none of the circumstances described in Clause 27.7 (*Insolvency*) applies to any other Transaction Obligor or any Approved Manager.

**19.11 No filing or stamp taxes**

Under the laws of its Relevant Jurisdictions it is not necessary that the Finance Documents to which it is a party be registered, filed, recorded, notarised or enrolled with any court or other authority in that jurisdiction or that any stamp, registration, notarial or similar Taxes or fees be paid on or in relation to the Finance Documents to which it is a party or the transactions contemplated by those Finance Documents.

**19.12 Deduction of Tax**

It is not required to make any Tax Deduction from any payment it may make under any Finance Document to which it is a party.

**19.13 No default**

- (a) No Event of Default and, on the date of this Agreement and on each Utilisation Date, no Default is continuing or might reasonably be expected to result from the making of any Utilisation or the entry into, the performance of, or any transaction contemplated by, any Transaction Document.
- (b) No other event or circumstance is outstanding which constitutes a default or a termination event (however described) under any other agreement or instrument which is binding on it or (in the case of the Parent Guarantor on any of its Subsidiaries) or to which its (or in the case of the Parent Guarantor, any of its Subsidiaries') assets are subject which might have a Material Adverse Effect.

**19.14 No misleading information**

- (a) Any factual information provided by any Transaction Obligor or an Approved Manager for the purposes of this Agreement was true and accurate in all material respects as at the date it was provided or as at the date (if any) at which it is stated.
- (b) The financial projections contained in any such information have been prepared on the basis of recent historical information and on the basis of reasonable assumptions.
- (c) Nothing has occurred or been omitted from any such information and no information has been given or withheld that results in any such information untrue or misleading in any material respect.

#### **19.15 Financial Statements**

- (a) Its Original Financial Statements were prepared in accordance with GAAP or IFRS (at the Obligors' option) consistently applied unless expressly disclosed to the Facility Agent in writing to the contrary before the date of this Agreement.
- (b) Its Original Financial Statements fairly present its financial condition as at the end of the relevant financial year and its results of operations during the relevant financial year (consolidated in the case of the Parent Guarantor).
- (c) There has been no material adverse change in its assets, business or financial condition since 17 May 2019.
- (d) Its most recent financial statements delivered pursuant to Clause 20.2 (*Financial statements*):
  - (i) have been prepared in accordance with Clause 20.4 (*Requirements as to financial statement*); and
  - (ii) fairly present its financial condition as at the end of the relevant financial year and operations during the relevant financial year (consolidated in the case of the Parent Guarantor).
- (e) Since the date of the most recent financial statements delivered pursuant to Clause 20.2 (*Financial statements*) there has been no material adverse change in its or any other Obligor's business, assets or financial condition.

#### **19.16 Pari passu ranking**

Its payment obligations under the Finance Documents to which it is a party rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

#### **19.17 No proceedings pending or threatened**

No litigation, arbitration or administrative proceedings or investigations (including proceedings or investigations relating to any alleged or actual breach of the ISM Code or of the ISPS Code) of or before any court, arbitral body or agency have which, if adversely determined, might reasonably be expected to have a Material Adverse Effect (to the best of its knowledge and belief (having made due and careful enquiry)) been started or threatened against it or any member of the Group.

#### **19.18 Valuations**

- (a) All information supplied by it or on its behalf to an Approved Valuer for the purposes of a valuation delivered to the Facility Agent in accordance with this Agreement was true and accurate as at the date it was supplied or (if appropriate) as at the date (if any) at which it is stated to be given.
- (b) It has not omitted to supply any information to an Approved Valuer which, if disclosed, would adversely affect any valuation prepared by such Approved Valuer.
- (c) There has been no change to the factual information provided pursuant to paragraph (a) above in relation to any valuation between the date such information was provided and the date of that valuation which, in either case, renders that information untrue or misleading in any material respect.

#### **19.19 No breach of laws**

It has not (and to the best of its knowledge no other member of the Group has) breached any law or regulation which breach has a Material Adverse Effect.

**19.20 No Charter**

No Ship is subject to any Charter other than a Permitted Charter.

**19.21 Compliance with Environmental Laws**

In respect of the ownership, operation and management of each Ship all Environmental Laws and the terms of all Environmental Approvals have been complied with and, in respect of the business of each member of the Group (as now conducted and as reasonably anticipated to be conducted in the future), no Obligor has any knowledge or belief that any Environmental Law or Environmental Approval has not been complied with.

**19.22 No Environmental Claim**

No Environmental Claim has been made or threatened against any member of the Group or any Ship.

**19.23 No Environmental Incident**

No Environmental Incident has occurred and no person has claimed that an Environmental Incident has occurred.

**19.24 ISM and ISPS Code compliance**

All requirements of the ISM Code and the ISPS Code as they relate to each Borrower, the Approved Technical Manager and each Ship have been complied with.

**19.25 Taxes paid**

- (a) It is not materially overdue in the filing of any Tax returns and it is not overdue in the payment of any amount in respect of Tax and it has no knowledge or belief that any other Transaction Obligor is materially overdue in the filing of any Tax returns or overdue in the payment of any amount in respect of Tax.
- (b) No claims or investigations are being made or conducted against it with respect to Taxes and it has no knowledge or belief that claims or investigations in respect of Taxes are being made or conducted against any other Transaction Obligor.

**19.26 Financial Indebtedness**

No Borrower has any Financial Indebtedness outstanding other than:

- (a) Permitted Financial Indebtedness; or
- (b) any guarantee or indemnity issued in the ordinary course of its business of operating, trading and chartering the Ship owned by it.

**19.27 Overseas companies**

No Transaction Obligor nor any Approved Manager has delivered particulars, whether in its name stated in the Finance Documents or any other name, of any UK Establishment to the Registrar of Companies as required under the Overseas Regulations or, if it has so registered, it has provided to the Facility Agent sufficient details to enable an accurate search against it to be undertaken by the Lenders at the Companies Registry.



**19.28 Good title to assets**

It and each other Transaction Obligor and each Approved Manager has good, valid and marketable title to, or valid leases or licences of, and all appropriate Authorisations to use, the assets necessary to carry on its business as presently conducted.

**19.29 Ownership**

- (a) With effect on and from the relevant Delivery Date, the relevant Borrower will be the sole legal and beneficial owner of the relevant Ship, its Earnings and its Insurances.
- (b) With effect on and from the date of its creation or intended creation, each Transaction Obligor and each Approved Manager will be the sole legal and beneficial owner of any asset that is the subject of any Transaction Security created or intended to be created by such Transaction Obligor or such Approved Manager.
- (c) The constitutional documents of each Transaction Obligor do not and could not restrict or inhibit any transfer of the shares of the Borrowers on creation or enforcement of the security conferred by the Security Documents.

**19.30 Centre of main interests and establishments**

For the purposes of The Council of the European Union Regulation No. 2015/848 on Insolvency Proceedings (recast) (the "Regulation"), its centre of main interest (as that term is used in Article 3(1) of the Regulation) is situated in Greece and it has no "establishment" (as that term is used in Article 2(10) of the Regulation) in any other jurisdiction.

**19.31 Place of business**

No Transaction Obligor has a place of business in any country other than Greece.

**19.32 No employee or pension arrangements**

No Transaction Obligor has any employees or any liabilities under any pension scheme.

**19.33 Sanctions**

- (a) No Transaction Obligor or Approved Manager:
  - (i) is a Prohibited Person;
  - (ii) is owned or controlled by or acting directly or indirectly on behalf of or for the benefit of, a Prohibited Person;
  - (iii) owns or controls a Prohibited Person; or
  - (iv) has a Prohibited Person serving as a director, officer or, to the best of its knowledge, employee.
- (b) No proceeds of the Loan shall be made available, directly or indirectly, to or for the benefit of a Prohibited Person nor shall they be otherwise directly or indirectly, applied in a manner or for a purpose prohibited by Sanctions.

**19.34 US Tax Obligor**

No Transaction Obligor is a US Tax Obligor.

**19.35 Anti-corruption law**

Each Obligor and each Affiliate of any of them has conducted its respective business in compliance with applicable anti-corruption laws and has instituted and maintained procedures designed to promote and achieve compliance with such laws, and to the best knowledge and belief of each Obligor, each member of the Group and each Affiliate of any of them has conducted its respective business in compliance with applicable anti-corruption laws and has instituted and maintained procedures designed to promote and achieve compliance with such laws.

#### **19.36 No adverse consequences**

- (a) It is not necessary under the laws of the Relevant Jurisdictions of any Obligor (or, to the best of its knowledge and belief, any other Transaction Obligor or an Approved Manager):
- (i) in order to enable any Finance Party to enforce its rights under any Finance Document; or
  - (ii) by reason of the execution of any Finance Document or the performance by it of its obligations under any Finance Document that any Finance Party should be licensed, qualified or otherwise entitled to carry on business in any of the Relevant Jurisdictions of any of the Obligors (or, to the best of its knowledge and belief, any other Transaction Obligor or any Approved Manager).
- (b) No Finance Party is or will be deemed to be resident, domiciled or carrying on business in any Relevant Jurisdictions of any Obligor (or, to the best of its knowledge and belief, any other Transaction Obligor or an Approved Manager) by reason only of the execution, performance and/or enforcement of any Finance Document.

#### **19.37 Completeness of documents**

The copies of any Transaction Documents and any other relevant documents provided or to be provided by the Borrowers to the Facility Agent in accordance with Clause 4 (*Conditions of Utilisation*) are, or will be, true and accurate copies of the originals and represent, or will represent, the full agreement between the parties to those documents and there are no commission, rebates, premiums or other payments due or to become due in connection with the subject matter of those documents other than as disclosed to, and approved in writing by, the Facility Agent.

#### **19.38 Money Laundering**

Any borrowing by the Borrowers under this Agreement, and the performance of its obligations under the Finance Documents, will be for its own account and will not involve any breach by it of any law or regulatory measure relating to "money laundering" as defined in Article 1 of the Directive 2015/849/EC of the European Parliament and of the Council of the European Communities.

#### **19.39 Repetition**

The Repeating Representations are deemed to be made by each Obligor by reference to the facts and circumstances then existing on the date of each Utilisation Request and the first day of each Interest Period.

## 20 INFORMATION UNDERTAKINGS

### 20.1 General

The undertakings in this Clause 20 (*Information Undertakings*) remain in force throughout the Security Period unless the Facility Agent, acting with the authorisation of the Majority Lenders (or, where specified, all the Lenders), may otherwise permit.

### 20.2 Financial statements

The Obligors shall supply to the Facility Agent in sufficient copies for all the Lenders:

- (a) as soon as they become available, but in any event:
  - (i) within 180 days, in relation to each Borrower, after the end of each of their respective financial years, their individual audited financial statements for that financial year (inclusive of the balance sheet and income statements as well as an auditors' report, but excluding notes); and
  - (ii) within 140 days, in relation to the Parent Guarantor, after the end of each of financial years, its consolidated audited financial statements for that financial year as presented in the Parent Guarantor's 20-F filing;
- (b) as soon as the same become available, but in any event within 90 days after the end of each quarter of each of their respective financial years:
  - (i) in relation to each Borrower, their individual unaudited financial statements for that financial quarter; and
  - (ii) in relation to the Parent Guarantor, its consolidated unaudited financial statements for that financial quarter as presented in the Parent Guarantor's 6K filing;
- (c) as soon as possible, but at least 10 business days prior to the end of each of the respective financial years of the Borrowers, a budget in a format approved by the Facility Agent which shows (on a combined and separate basis) all anticipated income and expenditure in respect of the Ship owned by the relevant Borrower during the next 12 month period from the date provided and an update of the budget for the previous 12 month period which shall include, without limitation, a comparison of the actual results of that Borrower in that previous 12 month period against the projected results for the same period in the original budget for that previous year; and
- (d) as soon as possible, but at least 10 business days prior to the end of each financial year of the Parent Guarantor, a budget in a format approved by the Facility Agent which shows (on a consolidated basis but excluding income and expenditure in relation to the Borrowers and the Ships) all anticipated income and expenditure during the next 12 month period from the date provided and an update of the budget for the previous 12 month period which shall include, without limitation, a comparison of the actual results of the Parent Guarantor in that previous 12 month period against the projected results for the same 12 month period in the original budget for that previous 12 month period.

### 20.3 Compliance Certificate

- (a) The Borrowers shall supply to the Facility Agent within 90 days after the end of each quarter of each financial year and 180 days after the end of each financial year of the Borrowers and the Parent Guarantor, together with each set of financial statements delivered pursuant to sub-paragraph (i) of paragraph (a) or paragraph (b) of Clause 20.2 (*Financial statements*), a Compliance Certificate setting out (in reasonable detail) computations as to compliance with

Clause 20 (*Financial Covenants*) and 25 (*Security Cover*) as at the date as at which those financial statements were drawn up.

- (b) Each Compliance Certificate shall be signed by the Chief Financial Officer of the Parent Guarantor as appropriate.

#### **20.4 Requirements as to financial statements**

- (a) Each set of financial statements delivered by the Obligors pursuant to Clause 20.2 (*Financial statements*) shall be certified by an officer of each Borrower fairly representing its financial condition and operations as at the date as at which those financial statements were drawn up.
- (b) The Obligors shall procure that each set of financial statements of an Obligor delivered pursuant to Clause 20.2 (*Financial statements*) is prepared using GAAP.

#### **20.5 Information: miscellaneous**

Each Obligor shall and shall procure that each other Transaction Obligor or any Approved Manager shall supply (and in the case of paragraphs (b) and (c) and sub-paragraph (iv) of paragraph (e) below, the Parent Guarantor shall supply) to the Facility Agent (in sufficient copies for all the Lenders, if the Facility Agent so requests):

- (a) upon the Facility Agent's request, all documents dispatched by it to its shareholders (or any class of them) or its creditors generally at the same time as they are dispatched;
- (b) promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings or investigations (including proceedings or investigations relating to any alleged or actual breach of the ISM Code or of the ISPS Code) which are current, threatened or pending against any member of the Group, and which might, if adversely determined, have a Material Adverse Effect;
- (c) promptly upon becoming aware of them, the details of any judgment or order of a court, arbitral body or agency which is made against any member of the Group and which might have a Material Adverse Effect;
- (d) promptly, its constitutional documents where these have been amended or varied;
- (e) promptly, such further information and/or documents regarding:
  - (i) each Ship, goods transported on each Ship, its Earnings and its Insurances;
  - (ii) the Security Assets;
  - (iii) compliance of the Transaction Obligors and the Approved Managers with the terms of the Finance Documents;
  - (iv) the financial condition, business and operations of any other Transaction Obligor,as any Finance Party (through the Facility Agent) may reasonably request; and
- (f) promptly, such further information and/or documents as any Finance Party (through the Facility Agent) may reasonably request so as to enable such Finance Party to comply with any laws applicable to it or as may be required by any regulatory authority.

#### **20.6 Notification of Default**

- (a) Each Obligor shall, and shall procure that each other Transaction Obligor shall, notify the Facility Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence (unless that Obligor is aware that a notification has already been provided by another Obligor).
- (b) Promptly upon a request by the Facility Agent, each Borrower shall supply to the Facility Agent a certificate signed by one of its officers on its behalf certifying that no Default is continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).

#### **20.7 Notification of amendments to MOA**

The Borrowers will promptly notify the Facility Agent of any amendment or supplement to any MOA.

#### **20.8 Use of websites**

- (a) Each Obligor may satisfy its obligation under the Finance Documents to which it is a party to deliver any information in relation to those Lenders (the "**Website Lenders**") which accept this method of communication by posting this information onto an electronic website designated by the Borrowers and the Facility Agent (the "**Designated Website**") if:
  - (i) the Facility Agent expressly agrees (after consultation with each of the Lenders) that it will accept communication of the information by this method;
  - (ii) both the relevant Obligor and the Facility Agent are aware of the address of and any relevant password specifications for the Designated Website; and
  - (iii) the information is in a format previously agreed between the relevant Obligor and the Facility Agent.

If any Lender (a "**Paper Form Lender**") does not agree to the delivery of information electronically then the Facility Agent shall notify the Obligors accordingly and each Obligor shall supply the information to the Facility Agent (in sufficient copies for each Paper Form Lender) in paper form. In any event each Obligor shall supply the Facility Agent with at least one copy in paper form of any information required to be provided by it.

- (b) The Facility Agent shall supply each Website Lender with the address of and any relevant password specifications for the Designated Website following designation of that website by the Obligors or any of them and the Facility Agent.
- (c) An Obligor shall promptly upon becoming aware of its occurrence notify the Facility Agent if:
  - (i) the Designated Website cannot be accessed due to technical failure;
  - (ii) the password specifications for the Designated Website change;
  - (iii) any new information which is required to be provided under this Agreement is posted onto the Designated Website;
  - (iv) any existing information which has been provided under this Agreement and posted onto the Designated Website is amended; or
  - (v) if that Obligor becomes aware that the Designated Website or any information posted onto the Designated Website is or has been infected by any electronic virus or similar software.

If an Obligor notifies the Facility Agent under sub-paragraph (i) or (v) of paragraph (c) above, all information to be provided by the Obligors under this Agreement after the date of that

notice shall be supplied in paper form unless and until the Facility Agent and each Website Lender is satisfied that the circumstances giving rise to the notification are no longer continuing.

- (d) Any Website Lender may request, through the Facility Agent, one paper copy of any information required to be provided under this Agreement which is posted onto the Designated Website. The Obligor shall comply with any such request within 10 Business Days.

## **20.9 “Know your customer” checks**

- (a) If:
- (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Agreement;
  - (ii) any change in the status of a Transaction Obligor (including, without limitation, a change of ownership of a Transaction Obligor) after the date of this Agreement; or
  - (iii) a proposed assignment or transfer by a Lender of any of its rights and obligations under this Agreement to a party that is not a Lender prior to such assignment or transfer,

obliges a Finance Party (or, in the case of sub-paragraph (iii) above, any prospective new Lender) to comply with “know your customer” or similar identification procedures in circumstances where the necessary information is not already available to it, each Obligor shall promptly upon the request of any Finance Party supply, or procure the supply of, such documentation and other evidence as is reasonably requested by a Servicing Party (for itself or on behalf of any other Finance Party) or any Lender (for itself or, in the case of the event described in sub-paragraph (iii) above, on behalf of any prospective new Lender) in order for such Finance Party or, in the case of the event described in sub-paragraph (iii) above, any prospective new Lender to carry out and be satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

- (b) Each Lender shall promptly upon the request of a Servicing Party supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Servicing Party (for itself) in order for that Servicing Party to carry out and be satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

## **21 FINANCIAL COVENANTS**

### **21.1 Borrowers’ Minimum Liquidity Amount**

The Obligor shall ensure that on and from the Utilisation Date of each Tranche and for so long that the Ship financed by that Tranche is subject to a Mortgage, there is standing to the credit of the Fixed Term Deposit Account of the Borrower owning that Ship a credit balance in an amount of not less than the Minimum Liquidity Amount in relation to that Ship.

### **21.2 Group Minimum Liquidity Amount**

The Parent Guarantor shall maintain, on a consolidated basis, at the end of each calendar quarter Liquid Funds in an amount, in aggregate, of equal to at least \$20,000,000.

### 21.3 Equal treatment of financiers

If, in the reasonable opinion of the Facility Agent (acting on the instructions of all the Lenders), any member of the Group agrees with any lender or other financier in the context of a financing made or to be made available to that member of the Group, financial covenants, in relation to:

- (a) the consolidated minimum net worth (or equivalent) of the Parent Guarantor;
- (b) the consolidated minimum liquidity (or equivalent) of the Parent Guarantor;
- (c) the consolidated market value adjusted leverage (or equivalent) of the Parent Guarantor; or
- (d) the consolidated book leverage (or equivalent) of the Parent Guarantor,

(together, the “Covenants”)

which place such lender or lenders or other financiers in a more favourable position in relation to the Covenants than that applicable to the Finance Parties pursuant to the Finance Documents, the Parent Guarantor shall, or shall procure that any Obligor shall give the Finance Parties the benefit of such Covenants (or any of them) which, in the opinion of the Finance Parties, would place them in an equivalent position as that applicable to the other lender or lenders or other financiers at the relevant time. The Borrowers and the Parent Guarantor shall also enter, if required by the Facility Agent (acting on the instructions of all the Lenders), into a supplemental agreement to this Agreement or, as the case may be, any of the other Finance Documents, to amend each such document accordingly, with such supplemental agreement or agreements being entered into, upon the Facility Agent’s request, on or without delay after the date on which the Covenants (or any of them) are granted.

## 22 GENERAL UNDERTAKINGS

### 22.1 General

The undertakings in this Clause 22 (*General Undertakings*) remain in force throughout the Security Period except as the Facility Agent, acting with the authorisation of the Majority Lenders (or, where specified, all the Lenders), may otherwise permit (and in respect of Clauses 22.17 (*Financial Indebtedness*) and 22.21 (b) (*Other transactions*) such permission not to be unreasonably withheld or delayed).

### 22.2 Authorisations

Each Obligor shall, and shall procure that each other Transaction Obligor and each Approved Manager will (where applicable), promptly:

- (a) obtain, comply with and do all that is necessary to maintain in full force and effect; and
- (b) supply certified copies to the Facility Agent of,

any Authorisation required under any law or regulation of a Relevant Jurisdiction or the state of the Approved Flag at any time of each Ship or other vessel to enable it to:

- (i) perform its obligations under the Transaction Documents to which it is a party;
- (ii) ensure the legality, validity, enforceability or admissibility in evidence in any Relevant Jurisdiction or in the state of the Approved Flag at any time of each Ship or other vessel, of any Transaction Document to which it is a party; and
- (iii) own and operate each Ship (in the case of the Borrowers).

### **22.3 Compliance with laws**

Each Obligor shall, and shall procure that each other Transaction Obligor and each Approved Manager will, comply in all respects with all laws and regulations to which it may be subject, if failure so to comply has a Material Adverse Effect.

### **22.4 Environmental compliance**

Each Obligor shall, and the Parent Guarantor shall (i) ensure that each other member of the Group and (ii) use its best efforts and have appropriate controls in place to procure each Approved Manager, will:

- (a) comply with all Environmental Laws;
  - (b) obtain, maintain and ensure compliance with all requisite Environmental Approvals;
  - (c) implement procedures to monitor compliance with and to prevent liability under any Environmental Law,
- where failure to do so has a Material Adverse Effect.

### **22.5 Environmental Claims**

Each Obligor shall, and shall procure that each other Transaction Obligor and each Approved Manager will use its best efforts to, promptly upon becoming aware of the same, inform the Facility Agent in writing of:

- (a) any Environmental Claim against any member of the Group or any Approved Manager which is current, pending or threatened; and
- (b) any facts or circumstances which are reasonably likely to result in any Environmental Claim being commenced or threatened against any member of the Group or any Approved Manager,

where the claim, if determined against that member of the Group or that Approved Manager, has a Material Adverse Effect.

### **22.6 Anti-corruption law**

- (a) Each Obligor shall not directly or indirectly use the proceeds of the Loan for any purpose which would breach the Bribery Act 2010, the United States Foreign Corrupt Practices Act of 1977 or other similar legislation in other jurisdictions.
- (b) Each Obligor shall:
  - (i) conduct its businesses in compliance with applicable anti-corruption laws; and
  - (ii) maintain procedures designed to promote and achieve compliance with such laws.

### **22.7 Taxation**

- (a) Each Obligor shall, and shall procure that each other Transaction Obligor will, pay and discharge all Taxes imposed upon it or its assets within the time period allowed without incurring penalties unless and only to the extent that:
  - (i) such payment is being contested in good faith;



- (ii) adequate reserves are maintained for those Taxes and the costs required to contest them and both have been disclosed in its latest financial statements delivered to the Facility Agent under Clause 20.2 (*Financial statements*); and
  - (iii) such payment can be lawfully withheld and failure to pay those Taxes does not have a Material Adverse Effect.
- (b) No Obligor shall, and the Parent Guarantor shall procure that no other Transaction Obligor will, change its residence for Tax purposes.

#### **22.8 Evidence of good standing**

The Obligors will from time to time if requested by the Facility Agent, provide the Facility Agent with evidence in form and substance satisfactory to the Facility Agent that the Obligors remain in good standing.

#### **22.9 Overseas companies**

Each Obligor shall, and shall procure that each other Transaction Obligor and each Approved Manager will, promptly inform the Facility Agent if it delivers to the Registrar particulars required under the Overseas Regulations of any UK Establishment and it shall comply with any directions given to it by the Facility Agent regarding the recording of any Transaction Security on the register which it is required to maintain under The Overseas Companies (Execution of Documents and Registration of Charges) Regulations 2009.

#### **22.10 No change to centre of main interests**

No Obligor shall change the location of its centre of main interest (as that term is used in Article 3(1) of the Regulation) from that stated in relation to it in Clause 19.30 (*Centre of main interests and establishments*) and it will create no “**establishment**” (as that term is used in Article 2(10) of the Regulation) in any other jurisdiction.

#### **22.11 Pari passu ranking**

Each Obligor shall, and shall procure that each other Transaction Obligor will, ensure that at all times any unsecured and unsubordinated claims of a Finance Party against it under the Finance Documents rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors except those creditors whose claims are mandatorily preferred by laws of general application to companies.

#### **22.12 Title**

- (a) With effect on and from the Delivery Date of each Ship, the Borrower acquiring that Ship shall hold the legal title to, and own the entire beneficial interest in that Ship, its Earnings and its Insurances (except where a third party may be named as co-assured) in respect of that Ship; and
- (b) with effect on and from its creation or intended creation, any other assets which are the subject of any Transaction Security created or intended to be created by such Borrower.
- (c) The Parent Guarantor shall hold the legal title to, and own the entire beneficial interest in with effect on and from its creation or intended creation, any assets which are the subject of any Transaction Security created or intended to be created by the Parent Guarantor.
- (d) Each Borrower shall remain a wholly owned Subsidiary of the Parent Guarantor at all times.

### 22.13 Negative pledge

- (a) No Obligor shall create or permit to subsist any Security over any of its assets which are the subject of the Security created or intended to be created by the Finance Documents.
- (b) No Borrower shall:
  - (i) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by a Transaction Obligor or any other member of the Group;
  - (ii) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
  - (iii) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
  - (iv) enter into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

- (c) Paragraphs (a) and (b) above do not apply to any Permitted Security.

### 22.14 Disposals

- (a) No Borrower shall enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any asset (including without limitation any Ship, its Earnings or its Insurances) except for a sale of a Ship owned by it with respect to which a mandatory prepayment pursuant to the provisions of Clauses 7.5 (*Mandatory prepayment on sale or Total Loss*) and 7.7 (*Restrictions*) is made and provided any other terms of this Agreement are complied with.
- (b) Paragraph (a) above does not apply to any Charter as all Charters are subject to Clause 24.16 (*Restrictions on chartering, appointment of managers etc.*).

### 22.15 Merger

No Obligor shall enter into any amalgamation, demerger, merger, consolidation or corporate reconstruction **Provided that** in the case of the Parent Guarantor such amalgamation, demerger, merger, consolidation or corporate reconstruction is permitted without restrictions so long as (i) the Parent Guarantor remains the surviving entity of any such process, (ii) no Default has occurred at the relevant time or would be triggered as a result of such process and (iii) the process of any such further amalgamation, demerger, merger, consolidation or corporate reconstruction does not have a Material Adverse Effect

### 22.16 Change of business

- (a) The Parent Guarantor shall procure that no substantial change is made to the general nature of the business of the Parent Guarantor from that carried on at the date of this Agreement.
- (b) No Borrower shall engage in any business other than the ownership and operation of its Ship.

### 22.17 Financial Indebtedness

No Borrower shall, incur or permit to be outstanding any Financial Indebtedness except:

- (a) Permitted Financial Indebtedness; or

- (b) any guarantee or indemnity issued in the ordinary course of its business of operating, trading and chartering the Ship owned by it.

#### **22.18 Expenditure**

No Borrower shall incur any expenditure, except for expenditure or trade debt reasonably incurred in the ordinary course of owning, operating, chartering, maintaining and repairing its Ship.

#### **22.19 Share capital**

No Borrower shall:

- (a) purchase, cancel or redeem any of its limited liability company interests;
- (b) increase or reduce its authorised limited liability company interests;
- (c) issue any further limited liability company interests except to the Parent Guarantor and provided such limited liability company interests are made subject to the terms of the LLC Interests Security applicable to that Borrower immediately upon the issue of such limited liability company interests in a manner satisfactory to the Facility Agent and the terms of that LLC Interests Security are complied with;
- (d) appoint any further officer of that Borrower (unless the provisions of the LLC Interests Security applicable to that Borrower are complied with).

#### **22.20 Dividends**

- (a) Each Borrower shall be entitled to make or pay any dividend or other distribution having similar effect (in cash or in kind) in respect of its share capital **Provided that** all of the following conditions are satisfied:
  - (i) all the terms of this Agreement are complied with;
  - (ii) if any Ship is not employed under an Assignable Charter, the Debt Service Coverage Ratio is not less than 1.30:1;
  - (iii) if any Ship is not employed under an Assignable Charter, the Security Cover Ratio is not less than 150 per cent.; and
  - (iv) neither a Default has occurred which is continuing nor the making or payment of such dividend or distribution would result in the occurrence of a Default.
- (b) The Parent Guarantor shall be entitled to make or pay any dividend or other distribution having similar effect (in cash or in kind) in respect of its share capital **Provided that** all of the following conditions are satisfied:
  - (i) neither a Default has occurred which is continuing nor the making or payment of such dividend or distribution would result in the occurrence of a Default under this Agreement, including, without limitation, pursuant to Clauses 21.2 (*Group Minimum Liquidity Amount*) and 21.3 (*Equal treatment of financiers*); and
  - (ii) all terms and conditions under any other loan facility agreement to which the Parent Guarantor or any other member of the Group is a party (in any capacity) are complied with by the relevant parties to it (and in case of failure, capable of remedy, subject to any applicable grace period under the relevant loan facility agreement).
- (c) In this Clause 22.20:

**"Accounting Information"** means, in relation to a Borrower, the annual audited financial statements or, as the case may be, the quarterly unaudited financial statements, each in respect of a Borrower, to be provided by that Borrower to the Facility Agent in accordance with Clause 20.2 (*Financial statements*).

**"Cash Flow"** means, in respect of each Relevant Period, the aggregate of all the Borrowers' operating profit for that Relevant Period, as shown in the most recent Accounting Information excluding any non-cash items such as depreciation, amortization, impairment, etc.

**"Debt Service Coverage Ratio"** means the ratio of Cash Flow to Debt Service Expenses in respect of any Relevant Period.

**"Debt Service Expenses"** means, in respect of each Relevant Period, the aggregate of Interest Expenses and scheduled Repayment Instalments falling due during that Relevant Period, as shown in the most recent Accounting Information.

**"Interest Expenses"** means, in respect of each Relevant Period, the aggregate amount of the accrued interest, commission, fees, discounts, prepayment fees, premiums or charges and other finance payments in respect of Permitted Financial Indebtedness paid or payable by the Borrowers in cash or capitalised in respect of that Relevant Period, as shown in the most recent Accounting Information.

**"Relevant Period"** means, in relation to a Borrower each period of twelve months ending on or about the last day of each financial quarter of that Borrower.

#### **22.21 Other transactions**

No Borrower will:

- (a) be the creditor in respect of any loan or any form of credit to any person other than another Transaction Obligor and where such loan or form of credit is Permitted Financial Indebtedness;
- (b) give or allow to be outstanding any guarantee or indemnity to or for the benefit of any person in respect of any obligation of any other person or enter into any document under which that Borrower assumes any liability of any other person other than any guarantee or indemnity given under the Finance Documents or any guarantee or indemnity issued in the ordinary course of its business of operating, trading and chartering the Ship owned by it.
- (c) enter into any material agreement other than:
  - (i) the Transaction Documents;
  - (ii) any other agreement expressly allowed under any other term of this Agreement or in the ordinary course of that Borrower's business of operating, trading and chartering the Ship owned by it; and
- (d) enter into any transaction on terms which are, in any respect, less favourable to that Borrower than those which it could obtain in a bargain made at arms' length; or
- (e) acquire any shares or other securities other than US or UK Treasury bills and certificates of deposit issued by major North American or European banks.

#### **22.22 No substantial liabilities**

Without prejudice to the Borrowers' other obligations under this Clause 22 (*General Undertakings*), except for any Permitted Financial Indebtedness and as otherwise provided by

this Agreement, no Borrower shall incur any liability to any third party which is in the Facility Agent's opinion of a substantial nature.

#### **22.23 Unlawfulness, invalidity and ranking; Security imperilled**

No Obligor shall, (and the Parent Guarantor shall procure that no other member of the Group or any Approved Manager will) do (or fail to do) or cause or permit another person to do (or omit to do) anything which is likely to:

- (a) make it unlawful for a Transaction Obligor to perform any of its obligations under the Transaction Documents or, in the case of an Approved Manager, any of its obligations under the Transaction Documents to which it is party;
- (b) cause any obligation of a Transaction Obligor under the Transaction Documents, or in the case of an Approved Manager, under the Transaction Documents to which it is party to cease to be legal, valid, binding or enforceable;
- (c) cause any Transaction Document to cease to be in full force and effect;
- (d) cause any Transaction Security to rank after, or lose its priority to, any other Security; and
- (e) imperil or jeopardise the Transaction Security.

#### **22.24 Further assurance**

- (a) Each Obligor shall, and shall procure that each other Transaction Obligor and each Approved Manager will, promptly, and in any event within the time period specified by the Security Agent do all such acts (including procuring or arranging any registration, notarisation or authentication or the giving of any notice) or execute or procure execution of all such documents (including assignments, transfers, mortgages, charges, notices, instructions, acknowledgments, proxies and powers of attorney), as the Security Agent may specify (and in such form as the Security Agent may require in favour of the Security Agent or its nominee(s)):
  - (i) to create, perfect, vest in favour of the Security Agent or protect the priority of the Security or any right of any kind created or intended to be created under or evidenced by the Finance Documents to which such Transaction Obligor or such Approved Manager is a party (which may include the execution of a mortgage, charge, assignment or other Security over all or any of the assets which are, or are intended to be, the subject of the Transaction Security) or for the exercise of any rights, powers and remedies of any of the Secured Parties provided by or pursuant to the Finance Documents or by law;
  - (ii) to confer on the Security Agent or confer on the Secured Parties Security over any property and assets of that Transaction Obligor located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to the Finance Documents;
  - (iii) to facilitate or expedite the realisation and/or sale of, the transfer of title to or the grant of, any interest in or right relating to the assets which are, or are intended to be, the subject of the Transaction Security or to exercise any power specified in any Finance Document in respect of which the Security has become enforceable; and/or
  - (iv) to enable or assist the Security Agent to enter into any transaction to commence, defend or conduct any proceedings and/or to take any other action relating to any item of the Security Property.
- (b) Each Obligor shall, and shall procure that each other Transaction Obligor and each Approved Manager will, take all such action as is available to it (including making all filings and

registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Security Agent or the Secured Parties by or pursuant to the Finance Documents to which each is a party.

- (c) At the same time as an Obligor delivers to the Security Agent any document executed by itself or another Transaction Obligor or any Approved Manager pursuant to this Clause 22.24 (*Further assurance*), that Obligor shall deliver, or shall procure that such other Transaction Obligor or such Approved Manager will deliver, to the Security Agent a certificate signed by one of that Obligor's or Transaction Obligor's or Approved Manager's directors which shall:
- (i) set out the text of a resolution of that Obligor's or Transaction Obligor's or Approved Manager's directors specifically authorising the execution of the document specified by the Security Agent; and
  - (ii) state that either the resolution was duly passed at a meeting of the directors validly convened and held, throughout which a quorum of directors entitled to vote on the resolution was present, or that the resolution has been signed by all the directors or officers and is valid under that Obligor's or Transaction Obligor's or Approved Manager's articles of association or other constitutional documents.

## **23 INSURANCE UNDERTAKINGS**

### **23.1 General**

The undertakings in this Clause 23 (*Insurance Undertakings*) remain in force from the date of this Agreement throughout the rest of the Security Period except as the Facility Agent, acting with the authorisation of the Majority Lenders (or, where specified, all the Lenders) may otherwise permit.

### **23.2 Maintenance of obligatory insurances**

Each Borrower shall keep the Ship owned by it insured at its expense against:

- (a) fire and usual marine risks (including hull and machinery and excess risks);
- (b) war risks (including, without limitation, protection and indemnity war risks, piracy and terrorism);
- (c) protection and indemnity risks (including, without limitation, freight demurrage and defence cover); and
- (d) any other risks against which the Facility Agent acting on the instructions of the Majority Lenders considers, having regard to practices and other circumstances prevailing at the relevant time, it would be reasonable for that Borrower to insure and which are specified by the Facility Agent by notice to that Borrower.

### **23.3 Terms of obligatory insurances**

The Borrowers shall effect such insurances:

- (a) in dollars;
- (b) in the case of fire and usual marine risks and war risks, in an amount on an agreed value basis, in relation to each Ship, at least the greater of:
  - (i) an amount which equals at least 120 per cent. of the Tranche in relation to that Ship; and

- (ii) the Market Value of that Ship;
- (c) in the case of oil pollution liability risks, for an aggregate amount equal to the highest level of cover from time to time available under basic protection and indemnity club as per International Group of Protection & Indemnity Clubs;
- (d) in the case of protection and indemnity risks, in respect of the full tonnage of each Ship;
- (e) on approved terms; and
- (f) through Approved Brokers and with approved insurance companies and/or underwriters or, in the case of war risks and protection and indemnity risks, in approved war risks and protection and indemnity risks associations.

#### **23.4 Further protections for the Finance Parties**

In addition to the terms set out in Clause 23.3 (*Terms of obligatory insurances*), each Borrower shall procure that the obligatory insurances effected by it shall:

- (a) subject always to paragraph (b), name that Borrower as the sole named insured unless the interest of every other named insured is limited:
  - (i) in respect of any obligatory insurances for hull and machinery and war risks;
    - (A) to any provable out-of-pocket expenses that it has incurred and which form part of any recoverable claim on underwriters; and
    - (B) to any third party liability claims where cover for such claims is provided by the policy (and then only in respect of discharge of any claims made against it); and
  - (ii) in respect of any obligatory insurances for protection and indemnity risks, to any recoveries it is entitled to make by way of reimbursement following discharge of any third party liability claims made specifically against it;

and every other named insured has undertaken in writing to the Security Agent (in such form as it requires) that any deductible shall be apportioned between that Borrower and every other named insured in proportion to the gross claims made or paid by each of them and that it shall do all things necessary and provide all documents, evidence and information to enable the Security Agent to collect or recover any moneys which at any time become payable in respect of the obligatory insurances;

- (b) whenever the Facility Agent requires, name (or be amended to name) the Security Agent as additional named insured for its rights and interests, warranted no operational interest and with full waiver of rights of subrogation against the Security Agent, but without the Security Agent being liable to pay (but having the right to pay) premiums, calls or other assessments in respect of such insurance;
- (c) name the Security Agent as loss payee with such directions for payment as the Facility Agent may specify;
- (d) provide that all payments by or on behalf of the insurers under the obligatory insurances to the Security Agent shall be made without set off, counterclaim or deductions or condition whatsoever;
- (e) provide that the obligatory insurances shall be primary without right of contribution from other insurances which may be carried by the Security Agent or any other Finance Party; and

- (f) provide that the Security Agent may make proof of loss if that Borrower fails to do so.

### **23.5 Renewal of obligatory insurances**

Each Borrower shall:

- (a) at least 7 days before the expiry of any obligatory insurance effected by it:
  - (i) notify the Facility Agent of the Approved Brokers (or other insurers) and any protection and indemnity or war risks association through or with which it proposes to renew that obligatory insurance and of the proposed terms of renewal; and
  - (ii) obtain the Facility Agents' approval to the matters referred to in sub-paragraph (i) above;
- (b) at least 7 days before the expiry of any obligatory insurance, renew that obligatory insurance in accordance with the Facility Agent's approval pursuant to paragraph (a) above; and
- (c) procure that the Approved Brokers and/or the approved war risks and protection and indemnity associations with which such a renewal is effected shall promptly after the renewal notify the Facility Agent in writing of the terms and conditions of the renewal.

### **23.6 Copies of policies; letters of undertaking**

Each Borrower shall ensure that the Approved Brokers provide the Security Agent with:

- (a) *pro forma* copies of all policies relating to the obligatory insurances which they are to effect or renew; and
- (b) a letter or letters or undertaking in a form required by the Facility Agent and including undertakings by the Approved Brokers that:
  - (i) they will have endorsed on each policy, immediately upon issue, a loss payable clause and a notice of assignment complying with the provisions of Clause 23.4 (*Further protections for the Finance Parties*);
  - (ii) they will hold such policies, and the benefit of such insurances, to the order of the Security Agent in accordance with such loss payable clause;
  - (iii) they will advise the Security Agent immediately of any material change to the terms of the obligatory insurances;
  - (iv) they will, if they have not received notice of renewal instructions from the relevant Borrower or its agents, notify the Security Agent not less than 14 days before the expiry of the obligatory insurances;
  - (v) if they receive instructions to renew the obligatory insurances, they will promptly notify the Facility Agent of the terms of the instructions;
  - (vi) they will not set off against any sum recoverable in respect of a claim relating to the Ship owned by that Borrower under such obligatory insurances any premiums or other amounts due to them or any other person whether in respect of that Ship or otherwise, they waive any lien on the policies, or any sums received under them, which they might have in respect of such premiums or other amounts and they will not cancel such obligatory insurances by reason of non-payment of such premiums or other amounts; and



- (vii) they will arrange for a separate policy to be issued in respect of the Ship owned by that Borrower forthwith upon being so requested by the Facility Agent.

### **23.7 Copies of certificates of entry**

Each Borrower shall ensure that any protection and indemnity and/or war risks associations in which the Ship owned by it is entered provide the Security Agent with:

- (a) a certified copy of the certificate of entry for that Ship;
- (b) a letter or letters of undertaking in such form as may be required by the Facility Agent acting on the instructions of Majority Lenders; and
- (c) a certified copy of each certificate of financial responsibility for pollution by oil or other Environmentally Sensitive Material issued by the relevant certifying authority in relation to that Ship.

### **23.8 Deposit of original policies**

Each Borrower shall ensure that all policies relating to obligatory insurances effected by it are deposited with the Approved Brokers through which the insurances are effected or renewed.

### **23.9 Payment of premiums**

Each Borrower shall punctually pay all premiums or other sums payable in respect of the obligatory insurances effected by it and produce all relevant receipts when so required by the Facility Agent or the Security Agent.

### **23.10 Guarantees**

Each Borrower shall on a best endeavours basis request from a protection and indemnity association to consider issuing any guarantees as such may be required from time to time, in accordance with their respective rules and conditions, and shall further use reasonable endeavours to procure that such guarantees are issued as promptly as practically possible and remain in full force and effect.

### **23.11 Compliance with terms of insurances**

- (a) No Borrower shall do or omit to do (nor permit to be done or not to be done) any act or thing which would or might render any obligatory insurance invalid, void, voidable or unenforceable or render any sum payable under an obligatory insurance repayable in whole or in part.
- (b) Without limiting paragraph (a) above, each Borrower shall:
  - (i) take all necessary action and comply with all requirements which may from time to time be applicable to the obligatory insurances, and (without limiting the obligation contained in sub-paragraph (iii) of paragraph (b) of Clause 23.6 (*Copies of policies; letters of undertaking*)) ensure that the obligatory insurances are not made subject to any exclusions or qualifications to which the Facility Agent has not given its prior approval;
  - (ii) not make any changes relating to the classification or classification society or manager or operator of the Ship owned by it unless approved by the underwriters of the obligatory insurances;
  - (iii) make (and promptly supply copies to the Facility Agent of) all quarterly or other voyage declarations which may be required by the protection and indemnity risks association in which the Ship owned by it is entered to maintain cover for trading to

the United States of America and Exclusive Economic Zone (as defined in the United States Oil Pollution Act 1990 or any other applicable legislation); and

- (iv) not employ the Ship owned by it, nor allow it to be employed, otherwise than in conformity with the terms and conditions of the obligatory insurances, without first obtaining the consent of the insurers and complying with any requirements (as to extra premium or otherwise) which the insurers specify.

#### **23.12 Alteration to terms of insurances**

No Borrower shall make or agree to any alteration to the terms of any obligatory insurance or waive any right relating to any obligatory insurance.

#### **23.13 Settlement of claims**

Each Borrower shall:

- (a) not settle, compromise or abandon any claim under any obligatory insurance for Total Loss or for a Major Casualty; and
- (b) do all things necessary and provide all documents, evidence and information to enable the Security Agent to collect or recover any moneys which at any time become payable in respect of the obligatory insurances.

#### **23.14 Provision of copies of communications**

Each Borrower shall provide the Security Agent, upon the Security Agent's request, with copies of all written communications between that Borrower and:

- (a) the Approved Brokers;
- (b) the approved protection and indemnity and/or war risks associations; and
- (c) the approved insurance companies and/or underwriters,

which relate directly or indirectly to:

- (i) that Borrower's obligations relating to the obligatory insurances including, without limitation, all requisite declarations and payments of additional premiums or calls; and
- (ii) any credit arrangements made between that Borrower and any of the persons referred to in paragraphs (a) or (b) above relating wholly or partly to the effecting or maintenance of the obligatory insurances.

#### **23.15 Provision of information**

Each Borrower shall promptly provide the Facility Agent (or any persons which it may designate) with any information which the Facility Agent (or any such designated person) requests for the purpose of:

- (a) obtaining or preparing any report from an independent marine insurance broker as to the adequacy of the obligatory insurances effected or proposed to be effected; and/or
- (b) effecting, maintaining or renewing any such insurances as are referred to in Clause 23.16 (*Mortgagee's interest and additional perils*) or dealing with or considering any matters relating to any such insurances,

and the Borrowers shall, forthwith upon demand, indemnify the Security Agent in respect of all fees and other expenses incurred by or for the account of the Security Agent in connection with any such report as is referred to in paragraph (a) above.

#### **23.16 Mortgagee's interest and additional perils**

- (a) The Security Agent shall be entitled from time to time to effect, maintain and renew a mortgagee's interest marine insurance and a mortgagee's interest additional perils insurance in such amounts (but not less than 120 per cent. of the Loan in respect of mortgagee's interest marine insurance and 110 per cent. of the Loan in respect of mortgagee's interest additional perils insurance), on such terms, through such insurers and generally in such manner as the Security Agent acting on the instructions of the Majority Lenders may from time to time consider appropriate.
- (b) The Borrowers shall within 30 days of demand fully indemnify the Security Agent once annually during the Security Period in respect of all premiums and other expenses which are incurred in connection with or with a view to effecting, maintaining or renewing any insurance referred to in paragraph (a) above or dealing with, or considering, any matter arising out of any such insurance and the Borrowers hereby irrevocably authorise the Security Agent to deduct from the relevant Earnings Account an amount equal to the above mentioned premiums and expenses payable pursuant this Clause 23.16 (*Mortgagee's interest and additional perils*) in the event the Borrowers have not fully indemnified the Security Agent within 30 days of demand.

### **24 SHIP UNDERTAKINGS**

#### **24.1 General**

The undertakings in this Clause 24 (*Ship Undertakings*) remain in force on and from the date of this Agreement and throughout the rest of the Security Period except as the Facility Agent, acting with the authorisation of the Majority Lenders (or, where specified, all the Lenders) may otherwise permit in writing (and in the case of Clauses 24.2, 24.3, 24.5, 24.6 and 24.16 such permission not to be unreasonably withheld or delayed).

#### **24.2 Ships' names and registration**

Each Borrower shall, in respect of the Ship owned by it:

- (a) keep that Ship registered in its name under the Approved Flag from time to time at its port of registration;
- (b) not do or allow to be done anything as a result of which such registration might be suspended, cancelled or imperilled;
- (c) not enter into any dual flagging arrangement in respect of that Ship; and
- (d) not change the name of that Ship,

**provided that** any change of flag of a Ship shall be subject to:

- (i) that Ship remaining subject to Security securing the Secured Liabilities created by a first priority or preferred ship mortgage on that Ship and, if appropriate, a Deed Of Covenant collateral to that mortgage (or equivalent first priority Security) on substantially the same terms as the Mortgage on that Ship and, if applicable, the related Deed of Covenant and on such other terms and in such other form as the Facility Agent, acting with the authorisation of the Majority Lenders, shall approve or require; and

- (ii) the execution of such other documentation amending and supplementing the Finance Documents as the Facility Agent, acting with the authorisation of the Majority Lenders, shall approve or require.

### **24.3 Repair and classification**

Each Borrower shall keep the Ship owned by it in a good and safe condition and state of repair:

- (a) consistent with first class ship ownership and management practice; and
- (b) so as to maintain the Approved Classification free of overdue recommendations and conditions other than in relation to Ship E during the period commencing on the Utilisation Date of the Tranche relating to that Ship and ending on the day falling 60 Days after that Utilisation Date.

### **24.4 Classification society undertaking**

If required by the Facility Agent in writing each Borrower shall, in respect of the Ship owned by it, instruct the relevant Approved Classification Society (and procure that the Approved Classification Society undertakes with the Security Agent):

- (a) to send to the Security Agent, following receipt of a written request from the Security Agent, certified true copies of all original class records held by the Approved Classification Society in relation to that Ship;
- (b) to allow the Security Agent (or its agents), at any time and from time to time, to inspect the original class and related records of that Borrower and that Ship at the offices of the Approved Classification Society and to take copies of them;
- (c) to notify the Security Agent immediately in writing if the Approved Classification Society:
  - (i) receives notification from that Borrower or any person that that Ship's Approved Classification Society is to be changed; or
  - (ii) becomes aware of any facts or matters which may result in or have resulted in a change, suspension, discontinuance, withdrawal or expiry of that Ship's class under the rules or terms and conditions of that Borrower or that Ship's membership of the Approved Classification Society;
- (d) following receipt of a written request from the Security Agent:
  - (i) to confirm that that Borrower is not in default of any of its contractual obligations or liabilities to the Approved Classification Society, including confirmation that it has paid in full all fees or other charges due and payable to the Approved Classification Society; or
  - (ii) to confirm that that Borrower is in default of any of its contractual obligations or liabilities to the Approved Classification Society, to specify to the Security Agent in reasonable detail the facts and circumstances of such default, the consequences of such default, and any remedy period agreed or allowed by the Approved Classification Society.

### **24.5 Modifications**

No Borrower shall make any modification or repairs to, or replacement of, any Ship or equipment installed on it which would or might materially and adversely alter the structure, type or performance characteristics of that Ship or materially reduce its value.

#### **24.6 Removal and installation of parts**

- (a) Subject to paragraph (b) below, no Borrower shall remove any material part of the Ship owned by it, or any item of equipment installed on that Ship unless:
- (i) the part or item so removed is forthwith replaced by a suitable part or item which is in the same condition as or better condition than the part or item removed;
  - (ii) the replacement part or item is free from any Security in favour of any person other than the Security Agent; and
  - (iii) the replacement part or item becomes, on installation on that Ship, the property of that Borrower and subject to the security constituted by the Mortgage on that Ship and, if applicable, the related Deed of Covenant.
- (b) A Borrower may install equipment owned by a third party if the equipment can be removed without any risk of damage to the Ship owned by that Borrower.

#### **24.7 Surveys**

Each Borrower shall submit the Ship owned by it regularly to all periodic or other surveys which may be required for classification purposes and, if so required by the Facility Agent acting on the instructions of the Majority Lenders, provide the Facility Agent, with copies of all survey reports.

#### **24.8 Inspection**

- (a) Each Borrower shall permit the Security Agent (acting through surveyors or other persons appointed by it for that purpose) to board the Ship owned by it at all reasonable times and on a best endeavour basis to not interfere with the Ship's trading schedule, to inspect its condition or to satisfy themselves about proposed or executed repairs and shall afford all proper facilities for such inspections.
- (b) Unless an Event of Default has occurred, the Borrowers shall bear the costs of one inspection per year under this Clause 24.8 (*Inspection*).

#### **24.9 Prevention of and release from arrest**

- (a) Each Borrower shall, in respect of the Ship owned by it, promptly discharge:
- (i) all liabilities which give or may give rise to maritime or possessory liens on or claims enforceable against that Ship, its Earnings or its Insurances;
  - (ii) all Taxes, dues and other amounts charged in respect of that Ship, its Earnings or its Insurances; and
  - (iii) all other outgoings whatsoever in respect of that Ship, its Earnings or its Insurances.
- (b) Each Borrower shall, immediately upon receiving notice of the arrest of the Ship owned by it or of its detention in exercise or purported exercise of any lien or claim, take all steps necessary to procure its release by providing bail or otherwise as the circumstances may require.

#### **24.10 Compliance with laws etc.**

Each Borrower shall:

- (a) comply, or procure compliance with all laws or regulations:

- (i) relating to its business generally; and
  - (ii) relating to the Ship owned by it, its ownership, employment, operation, management and registration, including, but not limited to, the ISM Code, the ISPS Code, all Environmental Laws, all Sanctions and the laws of the Approved Flag;
- (b) obtain, comply with and do all that is necessary to maintain in full force and effect any Environmental Approvals; and
  - (c) without limiting paragraph (a) above, not employ the Ship owned by it nor allow its employment, operation or management in any manner contrary to any law or regulation including but not limited to the ISM Code, the ISPS Code, all Environmental Laws and Sanctions (or which would be contrary to Sanctions if Sanctions were binding on each Transaction Obligor or each Approved Manager).

#### **24.11 ISPS Code**

Without limiting paragraph (a) of Clause 24.10 (*Compliance with laws etc.*), each Borrower shall:

- (a) procure that the Ship owned by it and the company responsible for that Ship's compliance with the ISPS Code comply with the ISPS Code; and
- (b) maintain an ISSC for that Ship; and
- (c) notify the Facility Agent immediately in writing of any actual or threatened withdrawal, suspension, cancellation or modification of the ISSC.

#### **24.12 Sanctions and Ship trading**

Without limiting Clause 24.10 (*Compliance with laws etc.*), each Borrower shall procure:

- (a) that the Ship owned by it shall not be used by or for the benefit of a Prohibited Person;
- (b) that such Ship shall not be used in trading in any manner contrary to Sanctions (including without limitation, entering or trading in a zone situated within a country, area or region that is subject to Sanctions) (or which could be contrary to Sanctions if Sanctions were binding on each Transaction Obligor or each Approved Manager) **Provided that**, in an Emergency Event, the Ship owned by it can enter into such a zone, area or region and can remain only until the relevant Borrower or, as the case may be, the relevant Approved Manager (in each case, acting prudently) considers that there is no longer an Emergency Event;
- (c) that such Ship shall not be traded in any manner which would trigger the operation of any sanctions limitation or exclusion clause (or similar) in the Insurances; and
- (d) (and for the purposes of this sub-paragraph each Borrower shall use its best endeavours to procure) that each charterparty in respect of that Ship shall contain, for the benefit of that Borrower, language which gives effect to the provisions of paragraph (c) of Clause 24.10 (*Compliance with laws etc.*) as regards Sanctions and of this Clause 24.12 (*Sanctions and Ship trading*) and which permits refusal of employment or voyage orders if compliance would result in a breach of Sanctions (or which would result in a breach of Sanctions, if Sanctions were binding on each Transaction Obligor or each Approved Manager).

#### **24.13 Trading in war zones**

In the event of hostilities in any part of the world (whether war is declared or not), no Borrower shall cause or permit the Ship owned by it to enter or trade to any zone which is declared a war zone by any government or by that Ship's war risks insurers unless:

- (a) the prior written consent of the underwriters of that Ship has been given; and
- (b) that Borrower has (at its expense) effected any special, additional or modified insurance cover (to the extent not covered by such Ship's war risks insurances) which the underwriters of that Ship may require.

#### **24.14 Provision of information**

Without prejudice to Clause 20.5 (*Information: miscellaneous*) each Borrower shall, in respect of the Ship owned by it, promptly provide the Facility Agent with any information which it requests regarding:

- (a) that Ship, its employment, position and engagements;
- (b) the Earnings and payments and amounts due to its master and crew;
- (c) any expenditure incurred, or likely to be incurred, in connection with the operation, maintenance or repair of that Ship and any payments made by it in respect of that Ship;
- (d) any towages and salvages; and
- (e) its compliance, each Approved Manager's compliance and the compliance of that Ship with the ISM Code and the ISPS Code,

and, upon the Facility Agent's request, promptly provide copies of any current Charter relating to that Ship, of any current guarantee of any such Charter, the Ship's Safety Management Certificate and any relevant Document of Compliance.

#### **24.15 Notification of certain events**

Each Borrower shall, in respect of the Ship owned by it, immediately (or, in the case of any casualty to a Ship which is likely to become a Major Casualty, upon becoming aware that its liabilities will likely constitute a Major Casualty) notify the Facility Agent by fax, confirmed forthwith by letter, of:

- (a) any casualty to that Ship which is or is likely to be or to become a Major Casualty;
- (b) any occurrence as a result of which that Ship has become or is, by the passing of time or otherwise, likely to become a Total Loss;
- (c) any requisition of that Ship for hire;
- (d) any requirement or recommendation made in relation to that Ship by any insurer or classification society or by any competent authority which is not immediately complied with;
- (e) any arrest or detention of that Ship or any exercise or purported exercise of any lien on that Ship or its Earnings;
- (f) any intended dry docking of that Ship;
- (g) any Environmental Claim made against that Borrower or in connection with that Ship, or any Environmental Incident;

- (h) any claim for breach of the ISM Code or the ISPS Code being made against that Borrower, an Approved Manager or otherwise in connection with that Ship; or
- (i) any other matter, event or incident, actual or threatened, the effect of which will or could lead to the ISM Code or the ISPS Code not being complied with,

and each Borrower shall keep the Facility Agent advised in writing on a regular basis and in such detail as the Facility Agent shall require as to that Borrower's, any such Approved Manager's or any other person's response to any of those events or matters.

#### **24.16 Restrictions on chartering, appointment of managers etc.**

No Borrower shall, in relation to the Ship owned by it:

- (a) let that Ship on demise charter for any period;
- (b) enter into any time, voyage or consecutive voyage charter in respect of that Ship other than a Permitted Charter;
- (c) materially amend, supplement or terminate a Management Agreement (material amendments shall include, without limitation, any amendments to the management fees resulting in an increase to such fees in excess of 5% per annum, duration of the management agreement or terms permitting the termination of such Management Agreement);
- (d) appoint a manager of that Ship other than the Approved Commercial Manager and the Approved Technical Manager or agree to any alteration to the terms of an Approved Manager's appointment;
- (e) de activate or lay up that Ship; or
- (f) put that Ship into the possession of any person for the purpose of work being done upon it (such restriction not to include shipyards) in an amount exceeding or likely to exceed \$1,000,000 (or the equivalent in any other currency) unless that person has first given to the Security Agent and in terms satisfactory to it a written undertaking not to exercise any lien on that Ship or its Earnings for the cost of such work or for any other reason.

#### **24.17 Notice of Mortgage**

Each Borrower shall keep the relevant Mortgage registered against the Ship owned by it as a valid first preferred mortgage and place and maintain in a conspicuous place in the navigation room and the master's cabin of that Ship a framed printed notice stating that that Ship is mortgaged by that Borrower to the Security Agent.

#### **24.18 Sharing of Earnings**

No Borrower shall enter into any agreement or arrangement for the sharing of any Earnings other than for the purposes of this Agreement.

#### **24.19 Charterparty Assignment**

If a Borrower enters into any Assignable Charter, that Borrower shall promptly after the date of entry into of such Assignable Charter:

- (a) if such Assignable Charter is a time charterparty, enter into a Charterparty Assignment and the assignment contemplated thereunder shall be notified to the relevant charterer and any charter guarantor, and the relevant Borrower shall use its best efforts to procure that such charterer and such charter guarantor acknowledges such assignment in accordance with the terms of such Charterparty Assignment; and



- (b) if such Assignable Charter is a bareboat charter, enter into a Charterparty Assignment and the assignment contemplated thereunder shall be notified to the relevant charterer and any charter guarantor, and the relevant Borrower shall use its best efforts to procure that the relevant Charterer or any charter guarantor acknowledges such assignment in accordance with the terms of such Charterparty Assignment, and the relevant Borrower shall procure that the relevant Charterer executes in favour of the Security Agent an assignment of (*inter alia*) all its rights, title and interest in and to the Insurances in respect of the Ship effected either by that Borrower or by the relevant charterer and a customary letter of undertaking in favour of the Security Agent whereby (*inter alia*) the interests of that charterer under the Charter are subordinated to the interests of the Security Agent under the Finance Documents,

and shall additionally deliver to the Facility Agent such other documents equivalent to those referred to at paragraphs 1.1, 1.2, 1.3, 1.4, 4, 5.2 and 5.3 of Schedule 2 and paragraph 2.5 of Part B of Schedule 2 (*Conditions Precedent*) as the Facility Agent may require from that Borrower in connection with such Charterparty Assignment.

#### **24.20 Repair and classification on delivery of Ship A**

The Borrowers undertake to ensure that as soon as possible after the Delivery Date and in any event no later than 60 days after the Utilisation Date in relation to Tranche A:

- (a) Ship A is repaired so that the conditions of class referred to in the class status report in relation to Ship A issued by the relevant Classification Society on 4 May 2019 are rectified to the Classification Society's satisfaction;
- (b) they deliver to the Facility Agent an updated class maintenance certificate or, as the case may be class status report in relation to Ship A showing no overdue conditions or recommendations.

#### **24.21 Notification of compliance**

Each Borrower shall promptly provide the Facility Agent, upon the Facility Agent's written request, from time to time with evidence (in such form as the Facility Agent requires) that it is complying with this Clause 24 (*Ship Undertakings*).

### **25 SECURITY COVER**

#### **25.1 Minimum required security cover**

Clause 25.2 (*Provision of additional security; prepayment*) applies if the Facility Agent notifies the Borrowers that the Security Cover Ratio is below the applicable Required Security Cover Ratio.

#### **25.2 Provision of additional security; prepayment**

- (a) If the Facility Agent serves a notice on the Borrowers under Clause 25.1 (*Minimum required security cover*), the Borrowers shall, on or before the date falling one Month after the date (the "**Prepayment Date**") on which the Facility Agent's notice is served, prepay such part of the Loan as shall eliminate the shortfall.
- (b) The Borrowers may, instead of making a prepayment as described in paragraph (a) above, provide, or ensure that a third party has provided, additional security which, in the opinion of the Facility Agent acting on the instructions of the Majority Lenders:
- (i) has a net realisable value at least equal to the shortfall; and
  - (ii) is documented in such terms as the Facility Agent may approve or require,

before the Prepayment Date; and conditional upon such security being provided in such manner, it shall satisfy such prepayment obligation.

### **25.3 Value of additional vessel security**

The net realisable value of any additional security which is provided under Clause 25.2 (*Provision of additional security; prepayment*) and which consists of Security over a vessel shall be the Market Value of the vessel concerned.

### **25.4 Valuations binding**

Any valuation under this Clause 25 (*Security Cover*) shall be binding and conclusive as regards each Borrower.

### **25.5 Provision of information**

- (a) Each Borrower shall promptly provide the Facility Agent and any Approved Valuer acting under this Clause 25 (*Security Cover*) with any information which the Facility Agent or the Approved Valuer may request for the purposes of the valuation.
- (b) If a Borrower fails to provide the information referred to in paragraph (a) above by the date specified in the request, the valuation may be made on any basis and assumptions which the Approved Valuer or the Facility Agent considers prudent.

### **25.6 Prepayment mechanism**

Any prepayment pursuant to Clause 25.2 (*Provision of additional security; prepayment*) shall be made in accordance with the relevant provisions of Clause 7 (*Prepayment and Cancellation*) and shall be treated as a voluntary prepayment pursuant to Clause 7.4 (*Voluntary prepayment of Loan*).

### **25.7 Provision of valuations**

- (a) The Facility Agent shall obtain two or, if the higher of the two valuations shows a value that is 15 per cent. higher than the lower of the two valuations, three valuations of each Ship and any other vessel over which additional Security has been created in accordance with Clause 25.2 (*Provision of additional security; prepayment*), each from:
  - (i) an Approved Valuer selected and appointed by the Facility Agent; and
  - (ii) where an Approved Valuer has failed to provide any such valuation within reasonable amount of time, any other firm or firms of independent sale and purchase shipbrokers appointed unilaterally by the Facility Agent,

to enable the Facility Agent to determine the Market Value of that Ship or any other vessel (over which additional Security has been created pursuant to clause 25.2 (*Provision of additional security; prepayment*)).

- (b) The valuations referred to in this Clause 25.7 (*Provision of valuations*) are to be obtained at any time requested by the Facility Agent in its absolute discretion.
- (c) Without prejudice to the generality of the obligations of the Obligors under Clause 16 (*Costs and Expenses*), the amount of the fees and expenses of the Approved Valuers or experts instructed by the Facility Agent under paragraph (b) of this Clause 25.7 (*Provision of valuations*), shall be paid, or reimbursed to the Facility Agent, by the Borrowers on demand (provided that the Borrowers shall not be liable for the amount of fees and expenses of the Approved Valuers or experts more than twice in each calendar year provided no Event of Default has occurred which is continuing) and the Borrowers hereby irrevocably authorise the

Facility Agent to deduct from the Earnings Accounts an amount equal to any costs and expenses incurred in connection with such valuations, if such costs and expenses (supported by documentary evidence) have not been otherwise fully paid by the Borrowers within 30 days of demand by the Facility Agent.

## 26 ACCOUNTS AND APPLICATION OF EARNINGS

### 26.1 Accounts

No Borrower may, without the prior consent of the Facility Agent, maintain any bank account other than its Earnings Account and the Retention Account.

### 26.2 Payment of Earnings

Each Borrower shall ensure that,

- (a) subject only to the provisions of the General Assignment to which it is a party, all the Earnings in respect of the Ship owned by it are paid in to its Earnings Account;
- (b) Subject to no Event of Default having occurred and being continuing and without prejudice to Clause 26.4 (*Shortfall in Earnings*), all amounts standing to the credit of the Earning Accounts shall be applied (or, as the context may require in respect of items (iii) and (iv), available for application) as follows:
  - (i) **first**, in or towards payment of any amounts then due and payable under this Agreement, except for principal and interest;
  - (ii) **secondly**, in or towards payments to the Retention Account pursuant to Clause 26.3 (*Monthly retentions*);
  - (iii) **thirdly**, in or towards payment of the costs and expenses of insuring, repairing, operating and maintaining a Ship; and
  - (iv) **fourthly**, any surplus shall be freely available to the relevant Borrower subject to the provisions of Clause 22.20 (*Dividend*).

### 26.3 Monthly retentions

The Borrowers shall ensure that, in each calendar month, on such dates as the Facility Agent may from time to time specify, there is transferred to the Retention Account out of the aggregate Earnings received by the Borrowers in their respective Earnings Accounts during the preceding calendar month:

- (a) one-third of the amount of any Repayment Instalment falling due under Clause 6.1 (*Repayment of Loan*) on the next Repayment Date; and
- (b) the relevant fraction of the aggregate amount of interest on the Loan which is payable under this Agreement in respect of any Interest Period then current,

The “**relevant fraction**” is a fraction of which:

- (i) the numerator is one; and
- (ii) the denominator is:
  - (A) the number of months comprised in the relevant then current Interest Period; or

- (B) if the period is shorter, the number of months from the later of the commencement of the relevant current Interest Period or the last Interest Payment Date on the Loan or the relevant part of the Loan to the next Interest Payment Date on the Loan or the relevant part of the Loan under this Agreement.

#### **26.4 Shortfall in Earnings**

- (a) If the aggregate of the credit balance on each Earnings Account is insufficient in any calendar month for the required amount to be transferred to the Retention Account under Clause 26.3 (*Monthly retentions*), the Borrowers shall make up the amount of the insufficiency on demand from the Facility Agent.
- (b) Without prejudicing the Facility Agent's right to make such demand at any time, the Facility Agent may, if so authorised by the Majority Lenders, permit the Borrowers to make up all or part of the insufficiency by increasing the amount of any transfer under Clause 26.3 (*Monthly retentions*) from the Earnings received in the next or subsequent calendar months.

#### **26.5 Application of retentions**

- (a) The Security Agent has sole signing rights in relation to the Retention Account.
- (b) Until an Event of Default occurs, the Facility Agent shall instruct the Security Agent to release to it, on each Repayment Date and on each Interest Payment Date, for distribution to the Finance Parties in accordance with Clause 34.2 (*Distributions by the Facility Agent*) so much of the then balance on the Retention Account as equals:
- (i) any Repayment Instalment due on that Repayment Date; and
  - (ii) the amount of interest payable on that Interest Payment Date;

in discharge of the Borrowers' liability for that Repayment Instalment, or that interest, as the case may be.

#### **26.6 Location of Accounts**

Each Borrower shall promptly:

- (a) comply with any requirement of the Facility Agent as to the location or relocation of its Earnings Account or the Retention Account (or any of them); and
- (b) execute any documents which the Facility Agent specifies to create or maintain in favour of the Security Agent Security over (and/or rights of set-off, consolidation or other rights in relation to) its Earnings Accounts and the Retention Account.

### **27 EVENTS OF DEFAULT**

#### **27.1 General**

Each of the events or circumstances set out in this Clause 27 (*Events of Default*) is an Event of Default except for Clause 27.19 (*Acceleration*) and Clause 27.20 (*Enforcement of security*).

#### **27.2 Non-payment**

A Transaction Obligor does not pay on the due date any amount payable pursuant to a Finance Document at the place and in the currency in which it is expressed to be payable unless its failure to pay is caused by an administrative or technical error or a Disruption Event, but the

payment is made within 3 Business Days of its due date or, if earlier, the date when the Disruption Event ceased to be continuing or the error was rectified.

### **27.3 Specific obligations**

A breach occurs of Clause 4.4 (*Waiver of conditions precedent*), Clause 20 (*Financial Covenants*), Clause 22.6 (*Anti-corruption law*), Clause 22.12 (*Title*), Clause 22.13 (*Negative pledge*), Clause 22.22 (*No substantial liabilities*), Clause 22.23 (*Unlawfulness, invalidity and ranking; Security imperilled*), Clause 23.2 (*Maintenance of obligatory insurances*), Clause 23.3 (*Terms of obligatory insurances*), Clause 23.5 (*Renewal of obligatory insurances*) or, save to the extent such breach is a failure to pay and therefore subject to Clause 27.2 (*Non-payment*), Clause 25 (*Security Cover*).

### **27.4 Other obligations**

A Transaction Obligor does not comply with any provision of the Finance Documents (other than those referred to in Clause 27.2 (*Non-payment*) and Clause 27.3 (*Specific obligations*)) or, in the case of an Approved Manager, with any provision of the Finance Documents to which it is party.

### **27.5 Misrepresentation**

Any representation or statement made or deemed to be made by a Transaction Obligor or an Approved Manager in the Finance Documents or any other document delivered by or on behalf of any Transaction Obligor or any Approved Manager under or in connection with any Finance Document is or proves to have been incorrect or misleading when made or deemed to be made unless such misrepresentation or statement is, or is deemed to have been, unintentionally made and is rectified within 5 Business Days of the making of such representation or statement.

### **27.6 Cross default**

- (a) Any Financial Indebtedness of any member of the Group is not paid when due nor within any originally applicable grace period.
- (b) Any Financial Indebtedness of any member of the Group is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).
- (c) Any commitment for any Financial Indebtedness of any member of the Group is cancelled or suspended by a creditor of any member of the Group as a result of an event of default (however described).
- (d) Any creditor of any Transaction Obligor or any other member of the Group becomes entitled to declare any Financial Indebtedness of any member of the Group due and payable prior to its specified maturity as a result of an event of default (however described).
- (e) No Event of Default will occur under this Clause 27.6 (*Cross default*) in relation to the Parent Guarantor or any other member of the Group (other than a Transaction Obligor) if the event(s) of default (however described) giving rise to the circumstances described in paragraphs (a) to (d) above is capable of remedy and is remedied within 30 days of such event.

### **27.7 Insolvency**

- (a) A Transaction Obligor or a member of the Group:
  - (i) is unable or admits inability to pay its debts as they fall due;

- (ii) is deemed to, or is declared to, be unable to pay its debts under applicable law;
  - (iii) suspends or threatens to suspend making payments on any of its debts; or
  - (iv) by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors (including the Finance Parties) with a view to rescheduling any of its indebtedness **Provided that** the existence or the entering of such negotiations or the entering, as a result of such negotiations, into any agreement with one or more of its creditors (including the Finance Parties) shall not constitute an Event of Default under this Clause 27.7 (*Insolvency*).
- (b) A moratorium is declared (and, if applicable, registered with appropriate authorities) in respect of any indebtedness of any Transaction Obligor or any member of the Group.
- (c) No Event of Default will be triggered under this Clause 27.7 (*Insolvency*), if the rescheduling, of any of its indebtedness under paragraph (a)(iv) above or the moratoriums under (b) above are requested, obtained or granted (as applicable) by the Facility Agent, Provided that no other Event of Default has occurred and is continuing.

#### **27.8 Insolvency proceedings**

- (a) Any corporate action, legal proceedings or other similar legal procedure or similar legal step is taken in relation to:
- (i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any Transaction Obligor or any member of the Group other than a solvent liquidation or reorganisation of any member of the Group which is not a Transaction Obligor;
  - (ii) a composition, compromise, assignment or arrangement with any creditor of any Transaction Obligor or any member of the Group;
  - (iii) the appointment of a liquidator (other than in respect of a solvent liquidation of a member of the Group which is not a Transaction Obligor), receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of any Transaction Obligor or any member of the Group or any of its assets; or
  - (iv) enforcement of any Security over any assets of any Transaction Obligor or any member of the Group,
- or any analogous procedure or step is taken in any jurisdiction.
- (b) Paragraph (a) above shall not apply to any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within 30 days of commencement.

#### **27.9 Creditors' process**

Any expropriation, attachment, sequestration, distress or execution (or any analogous process in any jurisdiction) affects any asset or assets of a Transaction Obligor (other than an arrest or detention of a Ship referred to in Clause 27.13 (*Arrest*) and is not discharged within 30 days (or such longer period the Facility Agent may agree to)).

#### **27.10 Unlawfulness, invalidity and ranking**

- (a) It is or becomes unlawful for a Transaction Obligor to perform any of its obligations under the Finance Documents (or, in the case of any Approved Manager, under the Finance Documents to which it is party).

- (b) Any obligation of a Transaction Obligor under the Finance Documents is not or ceases to be legal, valid, binding or enforceable (or, in the case of any Approved Manager, under the Finance Documents to which it is party).
- (c) Any Finance Document ceases to be in full force and effect or to be continuing or is or purports to be determined or any Transaction Security is alleged by a party to it (other than a Finance Party) to be ineffective.
- (d) Any Transaction Security proves to have ranked after, or loses its priority to, any other Security.

#### **27.11 Security imperilled**

Any Security created or intended to be created by a Finance Document is in any way imperilled or in jeopardy.

#### **27.12 Cessation of business**

- (a) Any Transaction Obligor or any Approved Manager suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or a material part of its business and in the case of an Approved Manager or a Transaction Obligor other than an Obligor such cessation has a Material Adverse Effect.
- (b) No Event of Default will be triggered under this Clause 27.12 (*Cessation of business*), if any such suspension or cessation occurs in relation to an Approved Manager and the Obligors procure that within 14 days of such suspension or cessation:
  - (i) a replacement Approved Manager acceptable to the Facility Agent is appointed in relation to the commercial or, as the case may be, the technical management in relation to each Ship; and
  - (ii) the replacement Approved Manager has granted, upon the Security Agent's request, a Manager's Undertaking in favour of the Facility Agent and the Security Agent in respect of each Ship and such other documents equivalent to those referred to at paragraphs 1.1, 1.2, 1.3, 1.4, 4, 5.2 and 5.3 of Schedule 2 and paragraph 2.3 of Part B of Schedule 2 (*Conditions Precedent*) as the Facility Agent may require from that Approved Manager in connection with each Ship.

#### **27.13 Arrest**

Any arrest of a Ship or its detention in the exercise or the purported exercise of any lien or claim unless it is redelivered to the full control of the relevant Borrower within 30 days of such arrest or detention (or, at the Borrower's request, any such longer period that the Facility Agent may, acting with the authorisation of the Majority Lenders, consent to).

#### **27.14 Expropriation**

- (a) The authority or ability of any Transaction Obligor or an Approved Manager to conduct its business is limited or wholly or substantially curtailed by any seizure, expropriation, nationalisation, intervention, restriction or other action by or on behalf of any governmental, regulatory or other authority or other person in relation to any Transaction Obligor or any Approved Manager or any of its assets other than:
  - (i) an arrest or detention of a Ship referred to in Clause 27.13 (*Arrest*); or
  - (ii) any Requisition.

- (b) No Event of Default will be triggered under this Clause 27.14 (*Expropriation*), if any such seizure, expropriation, nationalisation, intervention, restriction or other action occurs in relation to an Approved Manager and the Obligors procure that within 14 days of such seizure, expropriation, nationalisation, intervention, restriction or other action:
- (i) a replacement Approved Manager acceptable to the Facility Agent is appointed in relation to the commercial or, as the case may be, the technical management in relation to each Ship; and
  - (ii) the replacement Approved Manager has granted, upon the Security Agent's request, a Manager's Undertaking in favour of the Facility Agent and the Security Agent in respect of each Ship and such other documents equivalent to those referred to at paragraphs 1.1, 1.2, 1.3, 1.4, 4, 5.2 and 5.3 of Schedule 2 and paragraph 2.3 of Part B of Schedule 2 (*Conditions Precedent*) as the Facility Agent may require from that Approved Manager in connection with each Ship.

#### **27.15 Repudiation and rescission of agreements**

- (a) A Transaction Obligor or any Approved Manager (or any other relevant party) rescinds or purports to rescind or repudiates or purports to repudiate a Transaction Document to which it is a party (other than a MOA or a Charter, including without limitation any Assignable Charter) or any of the Transaction Security or evidences an intention to rescind or repudiate a Transaction Document or any Transaction Security.
- (b) There is a material breach by any charterer of any Assignable Charter for any Ship (including, without limitation, any non-payment in full by the relevant charterer of any charterhire or other amounts) or any Assignable Charter has been rescinded, repudiated or terminated for any reason whatsoever before its scheduled expiry date **Provided that** no Event of Default under this paragraph (b) will be triggered if:
- (i) no other Event of Default has occurred which is continuing; and
  - (ii) as soon as possible, but in any case not later than 30 days after such material breach, rescission, repudiation, termination or withdrawal, the Borrower owning the relevant Ship has entered into a new Charter (a "**Replacement Charter**") in respect of that Ship on terms (including, without limitation, the identity of the charterer, the hire rate and the method of payment of such hire) acceptable to the Facility Agent in its discretion and provided further that the Borrower owning that Ship has granted, upon the Security Agent's request, a Charterparty Assignment in favour of the Security Agent in respect of such Replacement Charter such other documents equivalent to those referred to at paragraphs 1.1, 1.2, 1.3, 1.4, 4, 5.2 and 5.3 of Schedule 2 and paragraph 2.5 of Part B of Schedule 2 (*Conditions Precedent*) as the Facility Agent may require from that Borrower in connection with such Charterparty Assignment.

#### **27.16 Litigation**

Any litigation, arbitration or administrative proceedings or investigations of, or before, any court, arbitral body or agency are started or threatened, or any judgment or order of a court, arbitral body or agency is made, in relation to any of the Transaction Documents or the transactions contemplated in any of the Transaction Documents which has a Material Adverse Effect.

#### **27.17 Material adverse change**

Any event or circumstance occurs which has a Material Adverse Effect.



### **27.18 Failure to co-operate and comply**

A breach occurs of Clause 20.9 (*"Know your customer" checks*) or any Transaction Obligor or any other person fails to promptly (and in any event within the prescribed period) comply with any of the Facility Agent's requests in respect of a "know your customer" or a similar identification procedure.

### **27.19 Acceleration**

On and at any time after the occurrence of an Event of Default which is continuing the Facility Agent may, and shall if so directed by the Majority Lenders:

- (a) by notice to the Borrowers:
  - (i) cancel the Total Commitments, whereupon they shall immediately be cancelled;
  - (ii) declare that all or part of the Loan, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents be immediately due and payable, whereupon it shall become immediately due and payable; and/or
  - (iii) declare that all or part of the Loan be payable on demand, whereupon it shall immediately become payable on demand by the Facility Agent acting on the instructions of the Majority Lenders; and/or
- (b) exercise or direct the Security Agent to exercise any or all of its rights, remedies, powers or discretions under the Finance Documents,

and the Facility Agent may serve notices under sub-paragraphs (a)(i), (ii) or (iii) above simultaneously or on different dates and any Servicing Party may take any action referred to in paragraph (b) above or Clause 27.20 (*Enforcement of security*) if no such notice is served or simultaneously with or at any time after the service of any of such notice.

### **27.20 Enforcement of security**

On and at any time after the occurrence of an Event of Default which is continuing the Security Agent may, and shall if so directed by the Majority Lenders, take any action which, as a result of the Event of Default or any notice served under Clause 27.19 (*Acceleration*), the Security Agent is entitled to take under any Finance Document or any applicable law or regulation.

## SECTION 9

### CHANGES TO PARTIES

#### 28 CHANGES TO THE LENDERS

##### 28.1 Assignments and transfers by the Lenders

Subject to this Clause 28 (*Changes to the Lenders*), a Lender (the “**Existing Lender**”) may:

- (a) assign any of its rights; or
- (b) transfer by novation any of its rights and obligations,

under the Finance Documents to another bank or financial institution or to a trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets (the “**New Lender**”).

##### 28.2 Conditions of assignment or transfer

- (a) No consent of a Transaction Obligor is required for an assignment or transfer by an Existing Lender to a New Lender.
- (b) An assignment will only be effective on:
  - (i) receipt by the Facility Agent (whether in the Assignment Agreement or otherwise) of written confirmation from the New Lender (in form and substance satisfactory to the Facility Agent) that the New Lender will assume the same obligations to the other Secured Parties as it would have been under if it had been an Original Lender; and
  - (ii) performance by the Facility Agent of all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to such assignment to a New Lender, the completion of which the Facility Agent shall promptly notify to the Existing Lender and the New Lender.
- (c) Each Obligor on behalf of itself and each Transaction Obligor agrees that all rights and interests (present, future or contingent) which the Existing Lender has under or by virtue of the Finance Documents are assigned to the New Lender absolutely, free of any defects in the Existing Lender’s title and of any rights or equities which the Borrowers or any other Transaction Obligor had against the Existing Lender.
- (d) A transfer will only be effective if the procedure set out in Clause 28.5 (*Procedure for transfer*) is complied with.
- (e) If:
  - (i) an Existing Lender assigns or transfers any of its rights or obligations under the Finance Documents or changes its Facility Office; and
  - (ii) as a result of circumstances existing at the date the assignment, transfer or change occurs, a Transaction Obligor would be obliged to make a payment to the New Lender or Existing Lender acting through its new Facility Office under Clause 12 (*Tax Gross Up and Indemnities*) or under that clause as incorporated by reference or in full in any other Finance Document or Clause 13 (*Increased Costs*),

then the New Lender or the Existing Lender acting through its new Facility Office is only entitled to receive payment under those Clauses to the same extent as the Existing Lender,

prior to such assignment or transfer, or an Existing Lender acting through its previous Facility Office would have been if the assignment, transfer or change had not occurred. This paragraph (e) shall not apply in respect of an assignment or transfer made in the ordinary course of the primary syndication of the Facility.

- (f) Each New Lender, by executing the relevant Transfer Certificate or Assignment Agreement, confirms, for the avoidance of doubt, that the Facility Agent has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the requisite Lender or Lenders in accordance with this Agreement on or prior to the date on which the transfer or assignment becomes effective in accordance with this Agreement and that it is bound by that decision to the same extent as the Existing Lender would have been had it remained a Lender.

### **28.3 Assignment or transfer fee**

The New Lender shall, on the date upon which an assignment or transfer takes effect, pay to the Facility Agent (for its own account) a fee of \$10,000.

### **28.4 Limitation of responsibility of Existing Lenders**

- (a) Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:

- (i) the legality, validity, effectiveness, adequacy or enforceability of the Transaction Documents, the Transaction Security or any other documents;
- (ii) the financial condition of any Transaction Obligor or any Approved Manager;
- (iii) the performance and observance by any Transaction Obligor or any Approved Manager of its obligations under the Transaction Documents or any other documents; or
- (iv) the accuracy of any statements (whether written or oral) made in or in connection with any Transaction Document or any other document,

and any representations or warranties implied by law are excluded.

- (b) Each New Lender confirms to the Existing Lender and the other Finance Parties and the Secured Parties that it:

- (i) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of each Transaction Obligor and each Approved Manager and their related entities in connection with its participation in this Agreement and has not relied exclusively on any information provided to it by the Existing Lender or any other Finance Party in connection with any Transaction Document or the Transaction Security; and
- (ii) will continue to make its own independent appraisal of the creditworthiness of each Transaction Obligor and each Approved Manager and their related entities throughout the Security Period.

- (c) Nothing in any Finance Document obliges an Existing Lender to:

- (i) accept a re-transfer or re-assignment from a New Lender of any of the rights and obligations assigned or transferred under this Clause 28 (*Changes to the Lenders*); or

- (ii) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by any Transaction Obligor or any Approved Manager of its obligations under the Transaction Documents or otherwise.

## 28.5 Procedure for transfer

- (a) Subject to the conditions set out in Clause 28.2 (*Conditions of assignment or transfer*), a transfer is effected in accordance with paragraph (c) below when the Facility Agent executes an otherwise duly completed Transfer Certificate delivered to it by the Existing Lender and the New Lender. The Facility Agent shall, subject to paragraph (b) below as soon as reasonably practicable after receipt by it of a duly completed Transfer Certificate appearing on its face to comply with this Agreement and delivered in accordance with this Agreement, execute that Transfer Certificate.
- (b) The Facility Agent shall only be obliged to execute a Transfer Certificate delivered to it by the Existing Lender and the New Lender once it is satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to the transfer to such New Lender.
- (c) Subject to Clause 28.9 (*Pro rata interest settlement*), on the Transfer Date:
  - (i) to the extent that in the Transfer Certificate the Existing Lender seeks to transfer by novation its rights and obligations under the Finance Documents and in respect of the Transaction Security, each of the Transaction Obligors, each Approved Manager and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and in respect of the Transaction Security and their respective rights against one another under the Finance Documents and in respect of the Transaction Security shall be cancelled (being the “**Discharged Rights and Obligations**”);
  - (ii) each of the Transaction Obligors, each Approved Manager and the New Lender shall assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights and Obligations only insofar as that Transaction Obligor or that Approved Manager and the New Lender have assumed and/or acquired the same in place of that Transaction Obligor or that Approved Manager and the Existing Lender;
  - (iii) the Facility Agent, the Security Agent, the Arranger, the New Lender and the other Original Lenders shall acquire the same rights and assume the same obligations between themselves and in respect of the Transaction Security as they would have acquired and assumed had the New Lender been an Original Lender with the rights and/or obligations acquired or assumed by it as a result of the transfer and to that extent the Facility Agent, the Security Agent, the Arranger and the Existing Lenders shall each be released from further obligations to each other under the Finance Documents; and
  - (iv) the New Lender shall become a Party as a “**Lender**”.

## 28.6 Procedure for assignment

- (a) Subject to the conditions set out in Clause 28.2 (*Conditions of assignment or transfer*) an assignment may be effected in accordance with paragraph (c) below when the Facility Agent executes an otherwise duly completed Assignment Agreement delivered to it by the Existing Lender and the New Lender. The Facility Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Assignment Agreement appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Assignment Agreement.

- (b) The Facility Agent shall only be obliged to execute an Assignment Agreement delivered to it by the Existing Lender and the New Lender once it is satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to the assignment to such New Lender.
- (c) Subject to Clause 28.9 (*Pro rata interest settlement*), on the Transfer Date:
  - (i) the Existing Lender will assign absolutely to the New Lender its rights under the Finance Documents and in respect of the Transaction Security expressed to be the subject of the assignment in the Assignment Agreement;
  - (ii) the Existing Lender will be released from the obligations (the “**Relevant Obligations**”) expressed to be the subject of the release in the Assignment Agreement (and any corresponding obligations by which it is bound in respect of the Transaction Security); and
  - (iii) the New Lender shall become a Party as a “Lender” and will be bound by obligations equivalent to the Relevant Obligations.
- (d) Lenders may utilise procedures other than those set out in this Clause 28.6 (*Procedure for assignment*) to assign their rights under the Finance Documents (but not, without the consent of the relevant Transaction Obligor or unless in accordance with Clause 28.5 (*Procedure for transfer*), to obtain a release by that Transaction Obligor from the obligations owed to that Transaction Obligor by the Lenders nor the assumption of equivalent obligations by a New Lender) **provided that** they comply with the conditions set out in Clause 28.2 (*Conditions of assignment or transfer*).

#### **28.7 Copy of Transfer Certificate or Assignment Agreement to Borrowers**

The Facility Agent shall, as soon as reasonably practicable after it has executed a Transfer Certificate or an Assignment Agreement, send to the Borrowers a copy of that Transfer Certificate or Assignment Agreement.

#### **28.8 Security over Lenders’ rights**

In addition to the other rights provided to Lenders under this Clause 28 (*Changes to the Lenders*), each Lender may without consulting with or obtaining consent from any Transaction Obligor or any Approved Manager, at any time charge, assign or otherwise create Security in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of that Lender including, without limitation:

- (a) any charge, assignment or other Security to secure obligations to a federal reserve or central bank; and
  - (b) any charge, assignment or other Security granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities,
- except that no such charge, assignment or Security shall:
- (i) release a Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or Security for the Lender as a party to any of the Finance Documents; or
  - (ii) require any payments to be made by a Transaction Obligor other than or in excess of, or grant to any person any more extensive rights than, those required to be made or granted to the relevant Lender under the Finance Documents.

## 28.9 Pro rata interest settlement

- (a) If the Facility Agent has notified the Lenders that it is able to distribute interest payments on a “*pro rata* basis” to Existing Lenders and New Lenders then (in respect of any transfer pursuant to Clause 28.5 (*Procedure for transfer*) or any assignment pursuant to Clause 28.6 (*Procedure for assignment*) the Transfer Date of which, in each case, is after the date of such notification and is not on the last day of an Interest Period):
- (i) any interest or fees in respect of the relevant participation which are expressed to accrue by reference to the lapse of time shall continue to accrue in favour of the Existing Lender up to but excluding the Transfer Date (“**Accrued Amounts**”) and shall become due and payable to the Existing Lender (without further interest accruing on them) on the last day of the current Interest Period (or, if the Interest Period is longer than six Months, on the next of the dates which falls at six Monthly intervals after the first day of that Interest Period); and
  - (ii) the rights assigned or transferred by the Existing Lender will not include the right to the Accrued Amounts, so that, for the avoidance of doubt:
    - (A) when the Accrued Amounts become payable, those Accrued Amounts will be payable to the Existing Lender; and
    - (B) the amount payable to the New Lender on that date will be the amount which would, but for the application of this Clause 28.9 (*Pro rata interest settlement*), have been payable to it on that date, but after deduction of the Accrued Amounts.
- (b) In this Clause 28.9 (*Pro rata interest settlement*) references to “Interest Period” shall be construed to include a reference to any other period for accrual of fees.
- (c) An Existing Lender which retains the right to the Accrued Amounts pursuant to this Clause 28.9 (*Pro rata interest settlement*) but which does not have a Commitment shall be deemed not to be a Lender for the purposes of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve any request for a consent, waiver, amendment or other vote of Lenders under the Finance Documents.

## 29 CHANGES TO THE TRANSACTION OBLIGORS

### 29.1 Assignment or transfer by Transaction Obligors

No Transaction Obligor nor any Approved Manager may assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

### 29.2 Release of security

- (a) If a disposal of any asset subject to security created by a Security Document is made in the following circumstances:
- (i) the disposal is permitted by the terms of any Finance Document;
  - (ii) all the Lenders agree to the disposal;
  - (iii) the disposal is being made at the request of the Security Agent in circumstances where any security created by the Security Documents has become enforceable; or
  - (iv) the disposal is being effected by enforcement of a Security Document,

the Security Agent may release the asset(s) being disposed of from any security over those assets created by a Security Document. However, the proceeds of any disposal (or an amount corresponding to them) must be applied in accordance with the requirements of the Finance Documents (if any).

- (b) If the Security Agent is satisfied that a release is allowed under this Clause 29.2 (*Release of security*) (at the request and expense of the Borrowers) each Finance Party must enter into any document and do all such other things which are reasonably required to achieve that release. Each other Finance Party irrevocably authorises the Security Agent to enter into any such document. Any release will not affect the obligations of any other Transaction Obligor or any Approved Manager under the Finance Documents.

## SECTION 10

### THE FINANCE PARTIES

#### 30 THE FACILITY AGENT, THE ARRANGER AND THE REFERENCE BANKS

##### 30.1 Appointment of the Facility Agent

- (a) Each of the Arranger and the Lenders appoints the Facility Agent to act as its agent under and in connection with the Finance Documents.
- (b) Each of the Arranger and the Lenders authorises the Facility Agent to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Facility Agent under, or in connection with, the Finance Documents together with any other incidental rights, powers, authorities and discretions.

##### 30.2 Instructions

- (a) The Facility Agent shall:
  - (i) unless a contrary indication appears in a Finance Document, exercise or refrain from exercising any right, power, authority or discretion vested in it as Facility Agent in accordance with any instructions given to it by:
    - (A) all Lenders if the relevant Finance Document stipulates the matter is an all Lender decision; and
    - (B) in all other cases, the Majority Lenders; and
  - (ii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with sub-paragraph (i) above (or, if this Agreement stipulates the matter is a decision for any other Finance Party or group of Finance Parties, in accordance with instructions given to it by that Finance Party or group of Finance Parties).
- (b) The Facility Agent shall be entitled to request instructions, or clarification of any instruction, from the Majority Lenders (or, if the relevant Finance Document stipulates the matter is a decision for any other Finance Party or group of Finance Parties, from that Finance Party or group of Finance Parties) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Facility Agent may refrain from acting unless and until it receives any such instructions or clarification that it has requested.
- (c) Save in the case of decisions stipulated to be a matter for any other Finance Party or group of Finance Parties under the relevant Finance Document and unless a contrary indication appears in a Finance Document, any instructions given to the Facility Agent by the Majority Lenders shall override any conflicting instructions given by any other Parties and will be binding on all Finance Parties.
- (d) Paragraph (a) above shall not apply:
  - (i) where a contrary indication appears in a Finance Document;
  - (ii) where a Finance Document requires the Facility Agent to act in a specified manner or to take a specified action;
  - (iii) in respect of any provision which protects the Facility Agent's own position in its personal capacity as opposed to its role of Facility Agent for the relevant Finance Parties.



- (e) If giving effect to instructions given by the Majority Lenders would in the Facility Agent's opinion have an effect equivalent to an amendment or waiver referred to in Clause 43 (*Amendments and Waivers*), the Facility Agent shall not act in accordance with those instructions unless consent to it so acting is obtained from each Party (other than the Facility Agent) whose consent would have been required in respect of that amendment or waiver.
- (f) In exercising any discretion to exercise a right, power or authority under the Finance Documents where it has not received any instructions as to the exercise of that discretion the Facility Agent shall do so having regard to the interests of all the Finance Parties.
- (g) The Facility Agent may refrain from acting in accordance with any instructions of any Finance Party or group of Finance Parties until it has received any indemnification and/or security that it may in its discretion require (which may be greater in extent than that contained in the Finance Documents and which may include payment in advance) for any cost, loss or liability (together with any applicable VAT) which it may incur in complying with those instructions.
- (h) Without prejudice to the remainder of this Clause 30.2 (*Instructions*), in the absence of instructions, the Facility Agent shall not be obliged to take any action (or refrain from taking action) even if it considers acting or not acting to be in the best interests of the Finance Parties. The Facility Agent may act (or refrain from acting) as it considers to be in the best interest of the Finance Parties.
- (i) The Facility Agent is not authorised to act on behalf of a Finance Party (without first obtaining that Finance Party's consent) in any legal or arbitration proceedings relating to any Finance Document. This paragraph (i) shall not apply to any legal or arbitration proceeding relating to the perfection, preservation or protection of rights under the Security Documents or enforcement of the Transaction Security or Security Documents.

### **30.3 Duties of the Facility Agent**

- (a) The Facility Agent's duties under the Finance Documents are solely mechanical and administrative in nature.
- (b) Subject to paragraph (c) below, the Facility Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Facility Agent for that Party by any other Party.
- (c) Without prejudice to Clause 28.7 (*Copy of Transfer Certificate or Assignment Agreement to Borrower*), paragraph (b) above shall not apply to any Transfer Certificate or any Assignment Agreement.
- (d) Except where a Finance Document specifically provides otherwise, the Facility Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (e) If the Facility Agent receives notice from a Party referring to any Finance Document, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the other Finance Parties.
- (f) If the Facility Agent is aware of the non-payment of any principal, interest, arrangement fee or other fee payable to a Finance Party (other than the Facility Agent, the Arranger or the Security Agent) under this Agreement, it shall promptly notify the other Finance Parties.
- (g) The Facility Agent shall have only those duties, obligations and responsibilities expressly specified in the Finance Documents to which it is expressed to be a party (and no others shall be implied).

### **30.4 Role of the Arranger**

Except as specifically provided in the Finance Documents, the Arranger has no obligations of any kind to any other Party under or in connection with any Finance Document.

### **30.5 No fiduciary duties**

- (a) Nothing in any Finance Document constitutes the Facility Agent or the Arranger as a trustee or fiduciary of any other person.
- (b) Neither the Facility Agent nor the Arranger shall be bound to account to other Finance Party for any sum or the profit element of any sum received by it for its own account.

### **30.6 Application of receipts**

Except as expressly stated to the contrary in any Finance Document, any moneys which the Facility Agent receives or recovers in its capacity as Facility Agent shall be applied by the Facility Agent in accordance with Clause 34.5 (*Application of receipts; partial payments*).

### **30.7 Business with the Group**

The Facility Agent and the Arranger may accept deposits from, lend money to, and generally engage in any kind of banking or other business with, any member of the Group.

### **30.8 Rights and discretions**

- (a) The Facility Agent may:
  - (i) rely on any representation, communication, notice or document believed by it to be genuine, correct and appropriately authorised;
  - (ii) assume that:
    - (A) any instructions received by it from the Majority Lenders, any Finance Parties or any group of Finance Parties are duly given in accordance with the terms of the Finance Documents; and
    - (B) unless it has received notice of revocation, that those instructions have not been revoked; and
  - (iii) rely on a certificate from any person:
    - (A) as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or
    - (B) to the effect that such person approves of any particular dealing, transaction, step, action or thing,as sufficient evidence that that is the case and, in the case of paragraph (A) above, may assume the truth and accuracy of that certificate.
- (b) The Facility Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Finance Parties) that:
  - (i) no Default has occurred (unless it has actual knowledge of a Default arising under Clause 27.2 (*Non-payment*));
  - (ii) any right, power, authority or discretion vested in any Party or any group of Finance Parties has not been exercised; and

- (iii) any notice or request made by any Borrower (other than the Utilisation Request or a Selection Notice) is made on behalf of and with the consent and knowledge of all the Transaction Obligors and each Approved Manager.
- (c) The Facility Agent may engage and pay for the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts.
- (d) Without prejudice to the generality of paragraph (c) above or paragraph (e) below, the Facility Agent may at any time engage and pay for the services of any lawyers to act as independent counsel to the Facility Agent (and so separate from any lawyers instructed by the Lenders) if the Facility Agent in its reasonable opinion deems this to be desirable.
- (e) The Facility Agent may rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Facility Agent or by any other Party) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.
- (f) The Facility Agent may act in relation to the Finance Documents and the Security Property through its officers, employees and agents and shall not:
  - (i) be liable for any error of judgment made by any such person; or
  - (ii) be bound to supervise, or be in any way responsible for any loss incurred by reason of misconduct, omission or default on the part of any such person,unless such error or such loss was directly caused by the Facility Agent's gross negligence or wilful misconduct.
- (g) Unless a Finance Document expressly provides otherwise the Facility Agent may disclose to any other Party any information it reasonably believes it has received as agent under the Finance Documents.
- (h) Notwithstanding any other provision of any Finance Document to the contrary, neither the Facility Agent nor the Arranger is obliged to do or omit to do anything if it would or might, in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.
- (i) Notwithstanding any provision of any Finance Document to the contrary, the Facility Agent is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.

### **30.9 Responsibility for documentation**

Neither the Facility Agent nor the Arranger is responsible or liable for:

- (a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Facility Agent, the Security Agent, the Arranger, a Transaction Obligor, any Approved Manager or any other person in, or in connection with, any Transaction Document or the transactions contemplated in the Transaction Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Transaction Document;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Transaction Document or the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Transaction Document or the Security Property; or

- (c) any determination as to whether any information provided or to be provided to any Finance Party or Secured Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

### **30.10 No duty to monitor**

The Facility Agent shall not be bound to enquire:

- (a) whether or not any Default has occurred;
- (b) as to the performance, default or any breach by any Transaction Obligor or any Approved Manager of its obligations under any Transaction Document; or
- (c) whether any other event specified in any Transaction Document has occurred.

### **30.11 Exclusion of liability**

- (a) Without limiting paragraph (b) below (and without prejudice to paragraph (e) of Clause 34.11 (*Disruption to Payment Systems etc.*) or any other provision of any Finance Document excluding or limiting the liability of the Facility Agent), the Facility Agent will not be liable for:
  - (i) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with any Transaction Document or the Security Property, unless directly caused by its gross negligence or wilful misconduct;
  - (ii) exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with, any Transaction Document, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Transaction Document or the Security Property; or
  - (iii) any shortfall which arises on the enforcement or realisation of the Security Property; or
  - (iv) without prejudice to the generality of paragraphs (i) to (iii) above, any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of:
    - (A) any act, event or circumstance not reasonably within its control; or
    - (B) the general risks of investment in, or the holding of assets in, any jurisdiction,including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets (including any Disruption Event); breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.
- (b) No Party other than the Facility Agent may take any proceedings against any officer, employee or agent of the Facility Agent in respect of any claim it might have against the Facility Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Transaction Document or any Security Property and any officer, employee or agent of the Facility Agent may rely on this Clause subject to Clause 1.5 (*Third party rights*) and the provisions of the Third Parties Act.

- (c) The Facility Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by the Facility Agent if the Facility Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Facility Agent for that purpose.
- (d) Nothing in this Agreement shall oblige the Facility Agent or the Arranger to carry out:
- (i) any “know your customer” or other checks in relation to any person; or
  - (ii) any check on the extent to which any transaction contemplated by this Agreement might be unlawful for any Finance Party,
- on behalf of any Finance Party and each Finance Party confirms to the Facility Agent and the Arranger that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Facility Agent or the Arranger.
- (e) Without prejudice to any provision of any Finance Document excluding or limiting the Facility Agent’s liability, any liability of the Facility Agent arising under or in connection with any Transaction Document or the Security Property shall be limited to the amount of actual loss which has been finally judicially determined to have been suffered (as determined by reference to the date of default of the Facility Agent or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Facility Agent at any time which increase the amount of that loss. In no event shall the Facility Agent be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Facility Agent has been advised of the possibility of such loss or damages.

### **30.12 Lenders’ indemnity to the Facility Agent**

- (a) Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Facility Agent, within three Business Days of demand, against any cost, loss or liability incurred by the Facility Agent (otherwise than by reason of the Facility Agent’s gross negligence or wilful misconduct) (or, in the case of any cost, loss or liability pursuant to Clause 34.11 (*Disruption to Payment Systems etc.*) notwithstanding the Facility Agent’s negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Facility Agent) in acting as Facility Agent under the Finance Documents (unless the Facility Agent has been reimbursed by a Transaction Obligor pursuant to a Finance Document).
- (b) Subject to paragraph (c) below, the Borrowers shall within three Business Days of demand reimburse any Lender for any payment that Lender makes to the Facility Agent pursuant to paragraph (a) above.
- (c) Paragraph (b) above shall not apply to the extent that the indemnity payment in respect of which the Lender claims reimbursement relates to a liability of the Facility Agent to an Obligor.

### **30.13 Resignation of the Facility Agent**

- (a) The Facility Agent may resign and appoint one of its Affiliates as successor by giving notice to the other Finance Parties and the Borrowers.
- (b) Alternatively, the Facility Agent may resign by giving 30 days’ notice to the other Finance Parties and the Borrowers, in which case the Majority Lenders may appoint a successor Facility Agent.

- (c) If the Majority Lenders have not appointed a successor Facility Agent in accordance with paragraph (b) above within 20 days after notice of resignation was given, the retiring Facility Agent may appoint a successor Facility Agent.
- (d) If the Facility Agent wishes to resign because (acting reasonably) it has concluded that it is no longer appropriate for it to remain as agent and the Facility Agent is entitled to appoint a successor Facility Agent under paragraph (c) above, the Facility Agent may (if it concludes (acting reasonably) that it is necessary to do so in order to persuade the proposed successor Facility Agent to become a party to this Agreement as Facility Agent) agree with the proposed successor Facility Agent amendments to this Clause 30 (*The Facility Agent, the Arranger and the Reference Banks*) and any other term of this Agreement dealing with the rights or obligations of the Facility Agent consistent with then current market practice for the appointment and protection of corporate trustees together with any reasonable amendments to the agency fee payable under this Agreement which are consistent with the successor Facility Agent's normal fee rates and those amendments will bind the Parties.
- (e) The retiring Facility Agent shall make available to the successor Facility Agent such documents and records and provide such assistance as the successor Facility Agent may reasonably request for the purposes of performing its functions as Facility Agent under the Finance Documents. The Borrowers shall, within three Business Days of demand, reimburse the retiring Facility Agent for the amount of all costs and expenses (including legal fees) properly incurred by it in making available such documents and records and providing such assistance.
- (f) The Facility Agent's resignation notice shall only take effect upon the appointment of a successor.
- (g) Upon the appointment of a successor, the retiring Facility Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (e) above) but shall remain entitled to the benefit of Clause 14.4 (*Indemnity to the Facility Agent*) and this Clause 30 (*The Facility Agent, the Arranger and the Reference Banks*) and any other provisions of a Finance Document which are expressed to limit or exclude its liability (or to indemnify it) in acting as Facility Agent. Any fees for the account of the retiring Facility Agent shall cease to accrue from (and shall be payable on) that date. Any successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.
- (h) The Majority Lenders may, by notice to the Facility Agent, require it to resign in accordance with paragraph (b) above. In this event, the Facility Agent shall resign in accordance with paragraph (b) above but the cost referred to in paragraph (e) above shall be for the account of the Borrowers.
- (i) The consent of any Borrower (or any other Transaction Obligor or any Approved Manager) is not required for an assignment or transfer of rights and/or obligations by the Facility Agent.

#### **30.14 Confidentiality**

- (a) In acting as Facility Agent for the Finance Parties, the Facility Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.
- (b) If information is received by a division or department of the Facility Agent other than the division or department responsible for complying with the obligations assumed by it under the Finance Documents, that information may be treated as confidential to that division or department, and the Facility Agent shall not be deemed to have notice of it nor shall it be obliged to disclose such information to any Party.
- (c) Notwithstanding any other provision of any Finance Document to the contrary, neither the Facility Agent nor the Arranger is obliged to disclose to any other person (i) any confidential

information or (ii) any other information if the disclosure would, or might in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty.

### **30.15 Relationship with the other Finance Parties**

- (a) Subject to Clause 28.9 (*Pro rata interest settlement*), the, Facility Agent may treat the person shown in its records as Lender at the opening of business (in the place of the Facility Agent's principal office as notified to the Finance Parties from time to time) as the Lender acting through its Facility Office:
- (i) entitled to or liable for any payment due under any Finance Document on that day; and
  - (ii) entitled to receive and act upon any notice, request, document or communication or make any decision or determination under any Finance Document made or delivered on that day,

unless it has received not less than five Business Days' prior notice from that Lender to the contrary in accordance with the terms of this Agreement.

- (b) Each Finance Party shall supply the Facility Agent with any information that the Security Agent may reasonably specify (through the Facility Agent) as being necessary or desirable to enable the Security Agent to perform its functions as Security Agent. Each Finance Party shall deal with the Security Agent exclusively through the Facility Agent and shall not deal directly with the Security Agent and any reference to any instructions being given by or sought from any Finance Party or group of Finance Parties by or to the Security Agent in this Agreement must be given or sought through the Facility Agent.
- (c) Any Lender may by notice to the Facility Agent appoint a person to receive on its behalf all notices, communications, information and documents to be made or despatched to that Lender under the Finance Documents. Such notice shall contain the address, fax number and (where communication by electronic mail or other electronic means is permitted under Clause 37.5 (*Electronic communication*)) electronic mail address and/or any other information required to enable the transmission of information by that means (and, in each case, the department or officer, if any, for whose attention communication is to be made) and be treated as a notification of a substitute address, fax number, electronic mail address (or such other information), department and officer by that Lender for the purposes of Clause 37.2 (*Addresses*) and sub-paragraph (ii) of paragraph (a) of Clause 37.5 (*Electronic communication*) and the Facility Agent shall be entitled to treat such person as the person entitled to receive all such notices, communications, information and documents as though that person were that Lender.

### **30.16 Credit appraisal by the Finance Parties**

Without affecting the responsibility of any Transaction Obligor or any Approved Manager for information supplied by it or on its behalf in connection with any Transaction Document, each Finance Party confirms to the Facility Agent and the Arranger that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under, or in connection with, any Transaction Document including but not limited to:

- (a) the financial condition, status and nature of each member of the Group;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Transaction Document, the Security Property and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Transaction Document or the Security Property;

- (c) whether that Finance Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under, or in connection with, any Transaction Document, the Security Property, the transactions contemplated by the Transaction Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Transaction Document or the Security Property;
- (d) the adequacy, accuracy or completeness of any information provided by the Facility Agent, any Party or by any other person under, or in connection with, any Transaction Document, the transactions contemplated by any Transaction Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Transaction Document; and
- (e) the right or title of any person in or to or the value or sufficiency of any part of the Security Assets, the priority of any of the Transaction Security or the existence of any Security affecting the Security Assets.

#### **30.17 Facility Agent's management time**

Any amount payable to the Facility Agent under Clause 14.4 (*Indemnity to the Facility Agent*), Clause 16 (*Costs and Expenses*) and Clause 30.12 (*Lenders' indemnity to the Facility Agent*) shall include the cost of utilising the Facility Agent's management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Facility Agent may notify to the Borrowers and the other Finance Parties, and is in addition to any fee paid or payable to the Facility Agent under Clause 11 (*Fees*).

#### **30.18 Deduction from amounts payable by the Facility Agent**

If any Party owes an amount to the Facility Agent under the Finance Documents, the Facility Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Facility Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.

#### **30.19 Reliance and engagement letters**

Each Secured Party confirms that each of the Arranger and the Facility Agent has authority to accept on its behalf (and ratifies the acceptance on its behalf of any letters or reports already accepted by the Arranger or the Facility Agent) the terms of any reliance letter or engagement letters or any reports or letters provided by accountants, auditors or providers of due diligence reports in connection with the Finance Documents or the transactions contemplated in the Finance Documents and to bind it in respect of those, reports or letters and to sign such letters on its behalf and further confirms that it accepts the terms and qualifications set out in such letters.

#### **30.20 Full freedom to enter into transactions**

Without prejudice to Clause 30.7 (*Business with the Group*) or any other provision of a Finance Document and notwithstanding any rule of law or equity to the contrary, the Facility Agent shall be absolutely entitled:

- (a) to enter into and arrange banking, derivative, investment and/or other transactions of every kind with or affecting any Transaction Obligor or any person who is party to, or referred to in, a Finance Document (including, but not limited to, any interest or currency swap or other transaction, whether related to this Agreement or not, and acting as syndicate agent and/or security agent for, and/or participating in, other facilities to such Transaction Obligor or any person who is party to, or referred to in, a Finance Document);



- (b) to deal in and enter into and arrange transactions relating to:
  - (i) any securities issued or to be issued by any Transaction Obligor or any other person; or
  - (ii) any options or other derivatives in connection with such securities; and
- (c) to provide advice or other services to any Borrower or any person who is a party to, or referred to in, a Finance Document,

and, in particular, the Facility Agent shall be absolutely entitled, in proposing, evaluating, negotiating, entering into and arranging all such transactions and in connection with all other matters covered by paragraphs (a), (b) and (c) above, to use (subject only to insider dealing legislation) any information or opportunity, howsoever acquired by it, to pursue its own interests exclusively, to refrain from disclosing such dealings, transactions or other matters or any information acquired in connection with them and to retain for its sole benefit all profits and benefits derived from the dealings transactions or other matters.

### **30.21 Role of Reference Banks**

- (a) No Reference Bank is under any obligation to provide a quotation or any other information to the Facility Agent.
- (b) No Reference Bank will be liable for any action taken by it under or in connection with any Finance Document, or for any Reference Bank Quotation, unless directly caused by its gross negligence or wilful misconduct.
- (c) No Party (other than the relevant Reference Bank) may take any proceedings against any officer, employee or agent of any Reference Bank in respect of any claim it might have against that Reference Bank or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document, or to any Reference Bank Quotation, and any officer, employee or agent of each Reference Bank may rely on this Clause 30.21 (*Role of Reference Banks*) subject to Clause 1.5 (*Third party rights*) and the provisions of the Third Parties Act.

### **30.22 Third Party Reference Banks**

A Reference Bank which is not a Party may rely on Clause 30.21 (*Role of Reference Banks*), Clause 43.3 (*Other exceptions*) and Clause 45 (*Confidentiality of Funding Rates and Reference Bank Quotations*) subject to Clause 1.5 (*Third party rights*) and the provisions of the Third Parties Act.

## **31 THE SECURITY AGENT**

### **31.1 Trust**

- (a) The Security Agent declares that it holds the Security Property on trust for the Secured Parties on the terms contained in this Agreement and shall deal with the Security Property in accordance with this Clause 31 (*The Security Agent*) and the other provisions of the Finance Documents.
- (b) Each other Finance Party authorises the Security Agent to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Security Agent under, or in connection with, the Finance Documents together with any other incidental rights, powers, authorities and discretions.

### **31.2 Parallel Debt (Covenant to pay the Security Agent)**

- (a) Each Obligor irrevocably and unconditionally undertakes to pay to the Security Agent its Parallel Debt which shall be amounts equal to, and in the currency or currencies of, its Corresponding Debt.
- (b) The Parallel Debt of an Obligor:
  - (i) shall become due and payable at the same time as its Corresponding Debt;
  - (ii) is independent and separate from, and without prejudice to, its Corresponding Debt.
- (c) For purposes of this Clause 31.2 (*Parallel Debt (Covenant to pay the Security Agent)*), the Security Agent:
  - (i) is the independent and separate creditor of each Parallel Debt;
  - (ii) acts in its own name and not as agent, representative or trustee of the Finance Parties and its claims in respect of each Parallel Debt shall not be held on trust; and
  - (iii) shall have the independent and separate right to demand payment of each Parallel Debt in its own name (including, without limitation, through any suit, execution, enforcement of security, recovery of guarantees and applications for and voting in any kind of insolvency proceeding).
- (d) The Parallel Debt of an Obligor shall be:
  - (i) decreased to the extent that its Corresponding Debt has been irrevocably and unconditionally paid or discharged; and
  - (ii) increased to the extent that its Corresponding Debt has increased,and the Corresponding Debt of an Obligor shall be decreased to the extent that its Parallel Debt has been irrevocably and unconditionally paid or discharged,

in each case provided that the Parallel Debt of an Obligor shall never exceed its Corresponding Debt.
- (e) All amounts received or recovered by the Security Agent in connection with this Clause 31.2 (*Parallel Debt (Covenant to pay the Security Agent)*) to the extent permitted by applicable law, shall be applied in accordance with Clause 34.5 (*Application of receipts; partial payments*).
- (f) This Clause 31.2 (*Parallel Debt (Covenant to pay the Security Agent)*) shall apply, with any necessary modifications, to each Finance Document.

### **31.3 Enforcement through Security Agent only**

The Secured Parties shall not have any independent power to enforce, or have recourse to, any of the Transaction Security or to exercise any right, power, authority or discretion arising under the Security Documents except through the Security Agent.

### **31.4 Instructions**

- (a) The Security Agent shall:
  - (i) unless a contrary indication appears in a Finance Document, exercise or refrain from exercising any right, power, authority or discretion vested in it as Security Agent in accordance with any instructions given to it by:

- (A) all Lenders (or the Facility Agent on their behalf) if the relevant Finance Document stipulates the matter is an all Lender decision; and
  - (B) in all other cases, the Majority Lenders (or the Facility Agent on their behalf); and
- (ii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with sub-paragraph (i) above (or if this Agreement stipulates the matter is a decision for any other Finance Party or group of Finance Parties, in accordance with instructions given to it by that Finance Party or group of Finance Parties).
- (b) The Security Agent shall be entitled to request instructions, or clarification of any instruction, from the Majority Lenders (or the Facility Agent on their behalf) (or, if the relevant Finance Document stipulates the matter is a decision for any other Finance Party or group of Finance Parties, from that Finance Party or group of Finance Parties) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Security Agent may refrain from acting unless and until it receives any such instructions or clarification that it has requested.
- (c) Save in the case of decisions stipulated to be a matter for any other Finance Party or group of Finance Parties under the relevant Finance Document and unless a contrary indication appears in a Finance Document, any instructions given to the Security Agent by the Majority Lenders shall override any conflicting instructions given by any other Parties and will be binding on all Finance Parties.
- (d) Paragraph (a) above shall not apply:
- (i) where a contrary indication appears in a Finance Document;
  - (ii) where a Finance Document requires the Security Agent to act in a specified manner or to take a specified action;
  - (iii) in respect of any provision which protects the Security Agent's own position in its personal capacity as opposed to its role of Security Agent for the relevant Secured Parties.
  - (iv) in respect of the exercise of the Security Agent's discretion to exercise a right, power or authority under any of:
    - (A) Clause 31.28 (*Application of receipts*);
    - (B) Clause 31.29 (*Permitted Deductions*); and
    - (C) Clause 31.30 (*Prospective liabilities*).
- (e) If giving effect to instructions given by the Majority Lenders would in the Security Agent's opinion have an effect equivalent to an amendment or waiver referred to in Clause 43 (*Amendments and Waivers*), the Security Agent shall not act in accordance with those instructions unless consent to it so acting is obtained from each Party (other than the Security Agent) whose consent would have been required in respect of that amendment or waiver.
- (f) In exercising any discretion to exercise a right, power or authority under the Finance Documents where either:
- (i) it has not received any instructions as to the exercise of that discretion; or
  - (ii) the exercise of that discretion is subject to sub-paragraph (iv) of paragraph (d) above,

the Security Agent shall do so having regard to the interests of all the Secured Parties.

- (g) The Security Agent may refrain from acting in accordance with any instructions of any Finance Party or group of Finance Parties until it has received or it has been satisfied that it will receive any indemnification and/or security that it may in its reasonable discretion require (which may be greater in extent than that contained in the Finance Documents and which may include payment in advance) for any cost, loss or liability (together with any applicable VAT) which it may incur in complying with those instructions.
- (h) Without prejudice to the remainder of this Clause 31.4 (*Instructions*), in the absence of instructions, the Security Agent may (but shall not be obliged to) take such action in the exercise of its powers and duties under the Finance Documents as it considers in its discretion to be appropriate.
- (i) The Security Agent is not authorised to act on behalf of a Finance Party (without first obtaining that Finance Party's consent) in any legal or arbitration proceedings relating to any Finance Document. This paragraph (i) shall not apply to any legal or arbitration proceeding relating to the perfection, preservation or protection of rights under the Security Documents or enforcement of the Transaction Security or Security Documents.

### **31.5 Duties of the Security Agent**

- (a) The Security Agent's duties under the Finance Documents are solely mechanical and administrative in nature.
- (b) The Security Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Security Agent for that Party by any other Party.
- (c) Except where a Finance Document specifically provides otherwise, the Security Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (d) If the Security Agent receives notice from a Party referring to any Finance Document, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the other Finance Parties.
- (e) The Security Agent shall have only those duties, obligations and responsibilities expressly specified in the Finance Documents to which it is expressed to be a party (and no others shall be implied).

### **31.6 No fiduciary duties**

- (a) Nothing in any Finance Document constitutes the Security Agent as an agent, trustee or fiduciary of any Transaction Obligor or any Approved Manager
- (b) The Security Agent shall not be bound to account to any other Secured Party for any sum or the profit element of any sum received by it for its own account.

### **31.7 Business with the Group**

The Security Agent may accept deposits from, lend money to, and generally engage in any kind of banking or other business with, any member of the Group.

### **31.8 Rights and discretions**

- (a) The Security Agent may:

- (i) rely on any representation, communication, notice or document believed by it (by performing any necessary due diligence checks) to be genuine, correct and appropriately authorised;
- (ii) assume that:
  - (A) any instructions received by it from the Majority Lenders, any Finance Parties or any group of Finance Parties are duly given in accordance with the terms of the Finance Documents;
  - (B) unless it has received notice of revocation, that those instructions have not been revoked;
  - (C) if it receives any instructions to act in relation to the Transaction Security, that all applicable conditions under the Finance Documents for so acting have been satisfied; and
- (iii) rely on a certificate from any person:
  - (A) as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or
  - (B) to the effect that such person approves of any particular dealing, transaction, step, action or thing,  
as sufficient evidence that that is the case and, in the case of paragraph (A) above, may assume the truth and accuracy of that certificate.
- (b) The Security Agent shall be entitled to carry out all dealings with the other Finance Parties through the Facility Agent and may give to the Facility Agent any notice or other communication required to be given by the Security Agent to any Finance Party.
- (c) The Security Agent may assume (unless it has received notice to the contrary in its capacity as security agent for the Secured Parties) that:
  - (i) no Default has occurred;
  - (ii) any right, power, authority or discretion vested in any Party or any group of Finance Parties has not been exercised; and
  - (iii) any notice or request made by any Borrower (other than the Utilisation Request or a Selection Notice) is made on behalf of and with the consent and knowledge of all the Transaction Obligors.
- (d) The Security Agent may engage and pay for the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts.
- (e) Without prejudice to the generality of paragraph (c) above or paragraph (f) below, the Security Agent may at any time engage and pay for the services of any lawyers to act as independent counsel to the Security Agent (and so separate from any lawyers instructed by the Facility Agent or the Lenders) if the Security Agent in its reasonable opinion deems this to be desirable.
- (f) The Security Agent may rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Security Agent or by any other Party) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.

- (g) The Security Agent may act in relation to the Finance Documents and the Security Property through its officers, employees and agents and shall not:
- (i) be liable for any error of judgment made by any such person; or
  - (ii) be bound to supervise, or be in any way responsible for any loss incurred by reason of misconduct, omission or default on the part of any such person,

unless such error or such loss was directly caused by the Security Agent's gross negligence or wilful misconduct.

- (h) Unless a Finance Document expressly provides otherwise the Security Agent may disclose to any other Party any information it reasonably believes it has received as security agent under the Finance Documents.
- (i) Notwithstanding any other provision of any Finance Document to the contrary, the Security Agent is not obliged to do or omit to do anything if it would or might, in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.
- (j) Notwithstanding any provision of any Finance Document to the contrary, the Security Agent is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.

### **31.9 Responsibility for documentation**

None of the Security Agent, any Receiver or Delegate is responsible or liable for:

- (a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Facility Agent, the Security Agent, the Arranger, a Transaction Obligor, any Approved Manager or any other person in, or in connection with, any Transaction Document or the transactions contemplated in the Transaction Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Transaction Document;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Transaction Document or the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Transaction Document or the Security Property;
- (c) any determination as to whether any information provided or to be provided to any Secured Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

### **31.10 No duty to monitor**

The Security Agent shall not be bound to enquire:

- (a) whether or not any Default has occurred;
- (b) as to the performance, default or any breach by any Transaction Obligor or any Approved Manager of its obligations under any Transaction Document; or
- (c) whether any other event specified in any Transaction Document has occurred.

### **31.11 Exclusion of liability**

- (a) Without limiting paragraph (b) below (and without prejudice to any other provision of any Finance Document excluding or limiting the liability of the Security Agent or any Receiver or Delegate), none of the Security Agent nor any Receiver or Delegate will be liable for:
- (i) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with any Transaction Document or the Security Property, unless directly caused by its gross negligence or wilful misconduct;
  - (ii) exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with, any Transaction Document, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Transaction Document or the Security Property; or
  - (iii) any shortfall which arises on the enforcement or realisation of the Security Property; or
  - (iv) without prejudice to the generality of paragraphs (i) to (iii) above, any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of:
    - (A) any act, event or circumstance not reasonably within its control; or
    - (B) the general risks of investment in, or the holding of assets in, any jurisdiction,including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets (including any Disruption Event); breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.
- (b) No Party other than the Security Agent, that Receiver or that Delegate (as applicable) may take any proceedings against any officer, employee or agent of the Security Agent, a Receiver or a Delegate in respect of any claim it might have against the Security Agent, a Receiver or a Delegate or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Transaction Document or any Security Property and any officer, employee or agent of the Security Agent, a Receiver or a Delegate may rely on this Clause subject to Clause 1.5 (*Third party rights*) and the provisions of the Third Parties Act.
- (c) The Security Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by the Security Agent if the Security Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Security Agent for that purpose.
- (d) Nothing in this Agreement shall oblige the Security Agent to carry out:
- (i) any “know your customer” or other checks in relation to any person; or
  - (ii) any check on the extent to which any transaction contemplated by this Agreement might be unlawful for any Finance Party,

on behalf of any Finance Party and each Finance Party confirms to the Security Agent that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Security Agent.

- (e) Without prejudice to any provision of any Finance Document excluding or limiting the liability of the Security Agent or any Receiver or Delegate, any liability of the Security Agent or any Receiver or Delegate arising under or in connection with any Transaction Document or the Security Property shall be limited to the amount of actual loss which has been finally judicially determined to have been suffered (as determined by reference to the date of default of the Security Agent, Receiver or Delegate or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Security Agent, any Receiver or Delegate at any time which increase the amount of that loss. In no event shall the Security Agent, any Receiver or Delegate be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Security Agent, the Receiver or Delegate has been advised of the possibility of such loss or damages.

#### **31.12 Lenders' indemnity to the Security Agent**

- (a) Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Security Agent and every Receiver, within three Business Days of demand, against any cost, loss or liability incurred by any of them (otherwise than by reason of the Security Agent's or Receiver's gross negligence or wilful misconduct) in acting as Security Agent or Receiver under the Finance Documents (unless the Security Agent or Receiver has been reimbursed by a Transaction Obligor pursuant to a Finance Document).
- (b) Subject to paragraph (c) below, the Borrowers shall within three Business Days of demand reimburse any Lender for any payment that Lender makes to the Security Agent pursuant to paragraph (a) above.
- (c) Paragraph (b) above shall not apply to the extent that the indemnity payment in respect of which the Lender claims reimbursement relates to a liability of the Security Agent to an Obligor.

#### **31.13 Resignation of the Security Agent**

- (a) The Security Agent may resign and appoint one of its Affiliates as successor by giving notice to the other Finance Parties and the Borrowers.
- (b) Alternatively, the Security Agent may resign by giving 30 days' notice to the other Finance Parties and the Borrowers, in which case the Majority Lenders may appoint a successor Security Agent.
- (c) If the Majority Lenders have not appointed a successor Security Agent in accordance with paragraph (b) above within 20 days after notice of resignation was given, the retiring Security Agent may appoint a successor Security Agent.
- (d) The retiring Security Agent shall make available to the successor Security Agent such documents and records and provide such assistance as the successor Security Agent may reasonably request for the purposes of performing its functions as Security Agent under the Finance Documents. The Borrowers shall, within three Business Days of demand, reimburse the retiring Security Agent for the amount of all costs and expenses (including legal fees) properly incurred by it in making available such documents and records and providing such assistance.
- (e) The Security Agent's resignation notice shall only take effect upon:



- (i) the appointment of a successor; and
  - (ii) the transfer, by way of a document expressed as a deed, of all the Security Property to that successor.
- (f) Upon the appointment of a successor, the retiring Security Agent shall be discharged, by way of a document executed as a deed, from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (b) of Clause 31.25 (*Winding up of trust*) and paragraph (d) above) but shall remain entitled to the benefit of Clause 14.5 (*Indemnity to the Security Agent*) and this Clause 31 (*The Security Agent*) and any other provisions of a Finance Document which are expressed to limit or exclude its liability (or to indemnify it) in acting as Security Agent. Any fees for the account of the retiring Security Agent shall cease to accrue from (and shall be payable on) that date. Any successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.
- (g) The Majority Lenders may, by notice to the Security Agent, require it to resign in accordance with paragraph (b) above. In this event, the Security Agent shall resign in accordance with paragraph (b) above but the cost referred to in paragraph (d) above shall be for the account of the Borrowers.
- (h) The consent of any Borrower (or any other Transaction Obligor or any Approved Manager) is not required for an assignment or transfer of rights and/or obligations by the Security Agent.

#### **31.14 Confidentiality**

- (a) In acting as Security Agent for the Finance Parties, the Security Agent shall be regarded as acting through its trustee division which shall be treated as a separate entity from any other of its divisions or departments.
- (b) If information is received by a division or department of the Security Agent other than the division or department responsible for complying with the obligations assumed by it under the Finance Documents, that information may be treated as confidential to that division or department, and the Security Agent shall not be deemed to have notice of it nor shall it be obliged to disclose such information to any Party.
- (c) Notwithstanding any other provision of any Finance Document to the contrary, the Security Agent is not obliged to disclose to any other person (i) any confidential information or (ii) any other information if the disclosure would, or might in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty.

#### **31.15 Credit appraisal by the Finance Parties**

Without affecting the responsibility of any Transaction Obligor or any Approved Manager for information supplied by it or on its behalf in connection with any Transaction Document, each Finance Party confirms to the Security Agent that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under, or in connection with, any Transaction Document including but not limited to:

- (a) the financial condition, status and nature of each member of the Group;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Transaction Document, the Security Property and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Transaction Document or the Security Property;
- (c) whether that Finance Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under, or in connection with, any Transaction

Document, the Security Property, the transactions contemplated by the Transaction Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Transaction Document or the Security Property;

- (d) the adequacy, accuracy or completeness of any information provided by the Security Agent, any Party or by any other person under, or in connection with, any Transaction Document, the transactions contemplated by any Transaction Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Transaction Document; and
- (e) the right or title of any person in or to or the value or sufficiency of any part of the Security Assets, the priority of any of the Transaction Security or the existence of any Security affecting the Security Assets.

### **31.16 Security Agent's management time**

- (a) Any amount payable to the Security Agent under Clause 14.5 (*Indemnity to the Security Agent*), Clause 16 (*Costs and Expenses*) and Clause 31.12 (*Lenders' indemnity to the Security Agent*) shall include the cost of utilising the Security Agent's management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Security Agent may notify to the Borrowers and the other Finance Parties, and is in addition to any fee paid or payable to the Security Agent under Clause 11 (*Fees*).
- (b) Without prejudice to paragraph (a) above, in the event of:
  - (i) a Default;
  - (ii) the Security Agent being requested by a Transaction Obligor, an Approved Manager or the Majority Lenders to undertake duties which the Security Agent and the Borrowers agree to be of an exceptional nature or outside the scope of the normal duties of the Security Agent under the Finance Documents; or
  - (iii) the Security Agent and the Borrowers agreeing that it is otherwise appropriate in the circumstances,

the Borrowers shall pay to the Security Agent any additional remuneration (together with any applicable VAT) that may be agreed between them or determined pursuant to paragraph (c) below.

- (c) If the Security Agent and the Borrowers fail to agree upon the nature of the duties, or upon the additional remuneration referred to in paragraph (b) above or whether additional remuneration is appropriate in the circumstances, any dispute shall be determined by an investment bank (acting as an expert and not as an arbitrator) selected by the Security Agent and approved by the Borrowers or, failing approval, nominated (on the application of the Security Agent) by the President for the time being of the Law Society of England and Wales (the costs of the nomination and of the investment bank being payable by the Borrowers) and the determination of any investment bank shall be final and binding upon the Parties.

### **31.17 Reliance and engagement letters**

Each Secured Party confirms that the Security Agent has authority to accept on its behalf (and ratifies the acceptance on its behalf of any letters or reports already accepted by the Security Agent) the terms of any reliance letter or engagement letters or any reports or letters provided by accountants, auditors or providers of due diligence reports in connection with the Finance Documents or the transactions contemplated in the Finance Documents and to bind it in respect of those, reports or letters and to sign such letters on its behalf and further confirms that it accepts the terms and qualifications set out in such letters.

### **31.18 No responsibility to perfect Transaction Security**

The Security Agent shall not be liable for any failure to:

- (a) require the deposit with it of any deed or document certifying, representing or constituting the title of any Transaction Obligor or any Approved Manager to any of the Security Assets;
- (b) obtain any licence, consent or other authority for the execution, delivery, legality, validity, enforceability or admissibility in evidence of any Finance Document or the Transaction Security;
- (c) register, file or record or otherwise protect any of the Transaction Security (or the priority of any of the Transaction Security) under any law or regulation or to give notice to any person of the execution of any Finance Document or of the Transaction Security;
- (d) take, or to require any Transaction Obligor or any Approved Manager to take, any step to perfect its title to any of the Security Assets or to render the Transaction Security effective or to secure the creation of any ancillary Security under any law or regulation; or
- (e) require any further assurance in relation to any Security Document.

### **31.19 Insurance by Security Agent**

(a) The Security Agent shall not be obliged:

- (i) to insure any of the Security Assets;
- (ii) to require any other person to maintain any insurance; or
- (iii) to verify any obligation to arrange or maintain insurance contained in any Finance Document,

and the Security Agent shall not be liable for any damages, costs or losses to any person as a result of the lack of, or inadequacy of, any such insurance.

(b) Where the Security Agent is named on any insurance policy as an insured party, it shall not be liable for any damages, costs or losses to any person as a result of its failure to notify the insurers of any material fact relating to the risk assumed by such insurers or any other information of any kind, unless the Majority Lenders request it to do so in writing and the Security Agent fails to do so within 14 days after receipt of that request.

### **31.20 Custodians and nominees**

The Security Agent may appoint and pay any person to act as a custodian or nominee on any terms in relation to any asset of the trust as the Security Agent may determine, including for the purpose of depositing with a custodian this Agreement or any document relating to the trust created under this Agreement and the Security Agent shall not be responsible for any loss, liability, expense, demand, cost, claim or proceedings incurred by reason of the misconduct, omission or default on the part of any person appointed by it under this Agreement or be bound to supervise the proceedings or acts of any person.

### **31.21 Delegation by the Security Agent**

(a) Each of the Security Agent, any Receiver and any Delegate may, at any time, delegate by power of attorney or otherwise to any person for any period, all or any right, power, authority or discretion vested in it in its capacity as such.

- (b) That delegation may be made upon any terms and conditions (including the power to sub delegate) and subject to any restrictions that the Security Agent, that Receiver or that Delegate (as the case may be) may, in its discretion, think fit in the interests of the Secured Parties.
- (c) No Security Agent, Receiver or Delegate shall be bound to supervise, or be in any way responsible for any damages, costs or losses incurred by reason of any misconduct, omission or default on the part of any such delegate or sub delegate.

#### **31.22 Additional Security Agents**

- (a) The Security Agent may at any time appoint, after an Event of Default has occurred and is continuing (and subsequently remove) any person to act as a separate trustee or as a co-trustee jointly with it:
  - (i) if it considers that appointment to be in the interests of the Secured Parties; or
  - (ii) for the purposes of conforming to any legal requirement, restriction or condition which the Security Agent deems to be relevant; or
  - (iii) for obtaining or enforcing any judgment in any jurisdiction,

and the Security Agent shall give prior notice to the Borrowers and the Finance Parties of that appointment.

- (b) Any person so appointed shall have the rights, powers, authorities and discretions (not exceeding those given to the Security Agent under or in connection with the Finance Documents) and the duties, obligations and responsibilities that are given or imposed by the instrument of appointment.
- (c) The remuneration that the Security Agent may pay to that person, and any documents costs and expenses (supported, if available, by documentary evidence) (together with any applicable VAT) incurred by that person in performing its functions pursuant to that appointment shall, for the purposes of this Agreement, be treated as costs and expenses incurred by the Security Agent.

#### **31.23 Acceptance of title**

The Security Agent shall be entitled to accept without enquiry, and shall not be obliged to investigate, any right and title that any Transaction Obligor or any Approved Manager may have to any of the Security Assets and shall not be liable for or bound to require any Transaction Obligor or any Approved Manager to remedy any defect in its right or title.

#### **31.24 Releases**

Upon a disposal of any of the Security Assets pursuant to the enforcement of the Transaction Security by a Receiver, a Delegate or the Security Agent, the Security Agent is irrevocably authorised (at the cost of the Obligors and without any consent, sanction, authority or further confirmation from any other Secured Party) to release, without recourse or warranty, that property from the Transaction Security and to execute any release of the Transaction Security or other claim over that asset and to issue any certificates of non-crystallisation of floating charges that may be required or desirable.

#### **31.25 Winding up of trust**

If the Security Agent, with the approval of the Facility Agent determines that:

- (a) all of the Secured Liabilities and all other obligations secured by the Security Documents have been fully and finally discharged; and
- (b) no Secured Party is under any commitment, obligation or liability (actual or contingent) to make advances or provide other financial accommodation to any Transaction Obligor or any Approved Manager pursuant to the Finance Documents,

then

- (i) the trusts set out in this Agreement shall be wound up and the Security Agent shall release, without recourse or warranty, all of the Transaction Security and the rights of the Security Agent under each of the Security Documents; and
- (ii) any Security Agent which has resigned pursuant to Clause 31.13 (*Resignation of the Security Agent*) shall release, without recourse or warranty, all of its rights under each Security Document.

### **31.26 Powers supplemental to Trustee Acts**

The rights, powers, authorities and discretions given to the Security Agent under or in connection with the Finance Documents shall be supplemental to the Trustee Act 1925 and the Trustee Act 2000 and in addition to any which may be vested in the Security Agent by law or regulation or otherwise.

### **31.27 Disapplication of Trustee Acts**

Section 1 of the Trustee Act 2000 shall not apply to the duties of the Security Agent in relation to the trusts constituted by this Agreement and the other Finance Documents. Where there are any inconsistencies between (i) the Trustee Acts 1925 and 2000 and (ii) the provisions of this Agreement and any other Finance Document, the provisions of this Agreement and any other Finance Document shall, to the extent permitted by law and regulation, prevail and, in the case of any inconsistency with the Trustee Act 2000, the provisions of this Agreement and any other Finance Document shall constitute a restriction or exclusion for the purposes of the Trustee Act 2000.

### **31.28 Application of receipts**

All amounts from time to time received or recovered by the Security Agent pursuant to the terms of any Finance Document, under Clause 31.2 (*Parallel Debt (Covenant to pay the Security Agent)*) or in connection with the realisation or enforcement of all or any part of the Security Property (for the purposes of this Clause 31 (*The Security Agent*), the "**Recoveries**") shall be held by the Security Agent on trust to apply them at any time as the Security Agent (in its discretion) sees fit, to the extent permitted by applicable law (and subject to the remaining provisions of this Clause 31 (*The Security Agent*)), in the following order of priority:

- (a) in discharging any sums owing to the Security Agent (in its capacity as such) other than pursuant to Clause 31.2 (*Parallel Debt (Covenant to pay the Security Agent)*) or any Receiver or Delegate;
- (b) in payment or distribution to the Facility Agent, on its behalf and on behalf of the other Secured Parties, for application towards the discharge of all sums due and payable by any Transaction Obligor or any Approved Manager under any of the Finance Documents in accordance with Clause 34.5 (*Application of receipts; partial payments*);
- (c) if none of the Transaction Obligors and the Approved Manager is under any further actual or contingent liability under any Finance Document, in payment or distribution to any person to

whom the Security Agent is obliged to pay or distribute in priority to any Transaction Obligor or any Approved Manager; and

- (d) the balance, if any, in payment or distribution to the relevant Transaction Obligor or Approved Manager.

### **31.29 Permitted Deductions**

The Security Agent may, in its discretion:

- (a) set aside by way of reserve amounts required to meet, and to make and pay, any deductions and withholdings (on account of Taxes or otherwise) which it is or may be required by any applicable law to make from any distribution or payment made by it under this Agreement; and
- (b) pay all Taxes which may be assessed against it in respect of any of the Security Property, or as a consequence of performing its duties, or by virtue of its capacity as Security Agent under any of the Finance Documents or otherwise (other than in connection with its remuneration for performing its duties under this Agreement).

### **31.30 Prospective liabilities**

Following enforcement of any of the Transaction Security, the Security Agent may, in its discretion, or at the request of the Facility Agent, hold any Recoveries in an interest bearing suspense or impersonal account(s) in the name of the Security Agent with such financial institution (including itself) and for so long as the Security Agent shall think fit (the interest being credited to the relevant account) for later payment to the Facility Agent for application in accordance with Clause 31.28 (*Application of receipts*) in respect of:

- (a) any sum to the Security Agent, any Receiver or any Delegate; and
- (b) any part of the Secured Liabilities,

that the Security Agent or, in the case of paragraph (b) only, the Facility Agent, reasonably considers, in each case, might become due or owing at any time in the future.

### **31.31 Investment of proceeds**

Prior to the payment of the proceeds of the Recoveries to the Facility Agent for application in accordance with Clause 31.28 (*Application of receipts*) the Security Agent may, in its discretion, hold all or part of those proceeds in an interest bearing suspense or impersonal account(s) in the name of the Security Agent with such financial institution (including itself) and for so long as the Security Agent shall think fit (the interest being credited to the relevant account) pending the payment from time to time of those moneys in the Security Agent's discretion in accordance with the provisions of Clause 31.28 (*Application of receipts*).

### **31.32 Currency conversion**

- (a) For the purpose of, or pending the discharge of, any of the Secured Liabilities the Security Agent may convert any moneys received or recovered by the Security Agent from one currency to another, at a market rate of exchange.
- (b) The obligations of any Transaction Obligor to pay in the due currency shall only be satisfied to the extent of the amount of the due currency purchased after deducting the costs of conversion.

### **31.33 Good discharge**

- (a) Any payment to be made in respect of the Secured Liabilities by the Security Agent may be made to the Facility Agent on behalf of the Secured Parties and any payment made in that way shall be a good discharge, to the extent of that payment, by the Security Agent.
- (b) The Security Agent is under no obligation to make the payments to the Facility Agent under paragraph (a) above in the same currency as that in which the obligations and liabilities owing to the relevant Finance Party are denominated.

#### **31.34 Amounts received by Obligor**

If any of the Obligors receives or recovers any amount which, under the terms of any of the Finance Documents, should have been paid to the Security Agent, that Obligor will hold the amount received or recovered on trust for the Security Agent and promptly pay that amount to the Security Agent for application in accordance with the terms of this Agreement.

#### **31.35 Full freedom to enter into transactions**

Without prejudice to Clause 31.7 (*Business with the Group*) or any other provision of a Finance Document and notwithstanding any rule of law or equity to the contrary, the Security Agent shall be absolutely entitled:

- (a) to enter into and arrange banking, derivative, investment and/or other transactions of every kind with or affecting any Transaction Obligor or any person who is party to, or referred to in, a Finance Document (including, but not limited to, any interest or currency swap or other transaction, whether related to this Agreement or not, and acting as syndicate agent and/or security agent for, and/or participating in, other facilities to such Transaction Obligor or any person who is party to, or referred to in, a Finance Document);
- (b) to deal in and enter into and arrange transactions relating to:
  - (i) any securities issued or to be issued by any Transaction Obligor or any other person; or
  - (ii) any options or other derivatives in connection with such securities; and
- (c) to provide advice or other services to the Borrowers or any person who is a party to, or referred to in, a Finance Document,

and, in particular, the Security Agent shall be absolutely entitled, in proposing, evaluating, negotiating, entering into and arranging all such transactions and in connection with all other matters covered by paragraphs (a), (b) and (c) above, to use (subject only to insider dealing legislation) any information or opportunity, howsoever acquired by it, to pursue its own interests exclusively, to refrain from disclosing such dealings, transactions or other matters or any information acquired in connection with them and to retain for its sole benefit all profits and benefits derived from the dealings transactions or other matters.

#### **32 CONDUCT OF BUSINESS BY THE FINANCE PARTIES**

No provision of this Agreement will:

- (a) interfere with the right of any Finance Party to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;
- (b) oblige any Finance Party to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or
- (c) oblige any Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

### 33 SHARING AMONG THE FINANCE PARTIES

#### 33.1 Payments to Finance Parties

If a Finance Party (a "**Recovering Finance Party**") receives or recovers any amount from a Transaction Obligor or an Approved Manager other than in accordance with Clause 34 (*Payment Mechanics*) (a "**Recovered Amount**") and applies that amount to a payment due to it under the Finance Documents then:

- (a) the Recovering Finance Party shall, within three Business Days, notify details of the receipt or recovery, to the Facility Agent;
- (b) the Facility Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Finance Party would have been paid had the receipt or recovery been received or made by the Facility Agent and distributed in accordance with Clause 34 (*Payment Mechanics*), without taking account of any Tax which would be imposed on the Facility Agent in relation to the receipt, recovery or distribution; and
- (c) the Recovering Finance Party shall, within three Business Days of demand by the Facility Agent, pay to the Facility Agent an amount (the "**Sharing Payment**") equal to such receipt or recovery less any amount which the Facility Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with Clause 34.5 (*Application of receipts; partial payments*).

#### 33.2 Redistribution of payments

The Facility Agent shall treat the Sharing Payment as if it had been paid by the relevant Transaction Obligor or Approved Manager and distribute it among the Finance Parties (other than the Recovering Finance Party) (the "**Sharing Finance Parties**") in accordance with Clause 34.5 (*Application of receipts; partial payments*) towards the obligations of that Transaction Obligor or that Approved Manager to the Sharing Finance Parties.

#### 33.3 Recovering Finance Party's rights

On a distribution by the Facility Agent under Clause 33.2 (*Redistribution of payments*) of a payment received by a Recovering Finance Party from a Transaction Obligor or any Approved Manager, as between the relevant Transaction Obligor or Approved Manager and the Recovering Finance Party, an amount of the Recovered Amount equal to the Sharing Payment will be treated as not having been paid by that Transaction Obligor or Approved Manager.

#### 33.4 Reversal of redistribution

If any part of the Sharing Payment received or recovered by a Recovering Finance Party becomes repayable and is repaid by that Recovering Finance Party, then:

- (a) each Sharing Finance Party shall, upon request of the Facility Agent, pay to the Facility Agent for the account of that Recovering Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay) (the "**Redistributed Amount**"); and
- (b) as between the relevant Transaction Obligor or Approved Manager and each relevant Sharing Finance Party, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by that Transaction Obligor or Approved Manager.

#### 33.5 Exceptions



- (a) This Clause 33 (*Sharing among the Finance Parties*) shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause, have a valid and enforceable claim against the relevant Transaction Obligor or Approved Manager.
- (b) A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:
  - (i) it notified that other Finance Party of the legal or arbitration proceedings; and
  - (ii) that other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

## SECTION 11

### ADMINISTRATION

#### 34 PAYMENT MECHANICS

##### 34.1 Payments to the Facility Agent

- (a) On each date on which a Transaction Obligor or a Lender is required to make a payment under a Finance Document, that Transaction Obligor or Lender shall make an amount equal to such payment available to the Facility Agent (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Facility Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.
- (b) Payment shall be made to such account in the principal financial centre of the country of that currency (or, in relation to euro, in a principal financial centre in such Participating Member State or London, as specified by the Facility Agent) and with such bank as the Facility Agent, in each case, specifies.

##### 34.2 Distributions by the Facility Agent

Each payment received by the Facility Agent under the Finance Documents for another Party shall, subject to Clause 34.3 (*Distributions to a Transaction Obligor*) and Clause 34.4 (*Clawback and pre-funding*) be made available by the Facility Agent as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office), to such account as that Party may notify to the Facility Agent by not less than five Business Days' notice with a bank specified by that Party in the principal financial centre of the country of that currency (or, in relation to euro, in the principal financial centre of a Participating Member State or London), as specified by that Party or, in the case of an Advance, to such account of such person as may be specified by the Borrowers in the Utilisation Request.

##### 34.3 Distributions to a Transaction Obligor

The Facility Agent may (with the consent of the Transaction Obligor or in accordance with Clause 35 (*Set-Off*)) apply any amount received by it for that Transaction Obligor in or towards payment (on the date and in the currency and funds of receipt) of any amount due from that Transaction Obligor under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

##### 34.4 Clawback and pre-funding

- (a) Where a sum is to be paid to the Facility Agent under the Finance Documents for another Party, the Facility Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.
- (b) Unless paragraph (c) below applies, if the Facility Agent pays an amount to another Party and it proves to be the case that the Facility Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Facility Agent shall on demand refund the same to the Facility Agent together with interest on that amount from the date of payment to the date of receipt by the Facility Agent, calculated by the Facility Agent to reflect its cost of funds.
- (c) If the Facility Agent has notified the Lenders that it is willing to make available amounts for the account of the Borrowers before receiving funds from the Lenders then if and to the extent

that the Facility Agent does so but it proves to be the case that it does not then receive funds from a Lender in respect of a sum which it paid to the Borrowers:

- (i) the Facility Agent shall notify the Borrowers of that Lender's identity and the Borrowers shall on demand refund it to the Facility Agent; and
- (ii) the Lender by whom those funds should have been made available or, if the Lender fails to do so, the Borrowers shall on demand pay to the Facility Agent the amount (as certified by the Facility Agent) which will indemnify the Facility Agent against any funding cost incurred by it as a result of paying out that sum before receiving those funds from that Lender.

#### **34.5 Application of receipts; partial payments**

- (a) If the Facility Agent or the Security Agent (as applicable) receives a payment that is insufficient to discharge all the amounts then due and payable by a Transaction Obligor under the Finance Documents, the Facility Agent or the Security Agent (as applicable) shall apply that payment towards the obligations of that Transaction Obligor under the Finance Documents in the following order:
  - (i) **first**, in or towards payment *pro rata* of any unpaid fees, costs and expenses of, and any other amounts owing to, the Facility Agent, the Security Agent, any Receiver or any Delegate under the Finance Documents;
  - (ii) **secondly**, in or towards payment *pro rata* of any accrued interest and fees due but unpaid to the Lenders under this Agreement;
  - (iii) **thirdly**, in or towards payment *pro rata* of any principal due but unpaid to the Lenders under this Agreement;
  - (iv) **fourthly**, in or towards payment *pro rata* of any other sum due but unpaid under the Finance Documents.
- (b) The Facility Agent shall, if so directed by the Majority Lenders, vary, or instruct the Security Agent to vary (as applicable), the order set out in sub-paragraphs (ii) to (iv) of paragraph (a) above.
- (c) Paragraphs (a) and (b) above will override any appropriation made by a Transaction Obligor.

#### **34.6 No set-off by Transaction Obligors**

All payments to be made by a Transaction Obligor under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

#### **34.7 Business Days**

- (a) Any payment under the Finance Documents which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- (b) During any extension of the due date for payment of any principal or an Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

#### **34.8 Currency of account**

- (a) Subject to paragraphs (b) and (c) below, dollars is the currency of account and payment for any sum due from a Transaction Obligor under any Finance Document.
- (b) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.
- (c) Any amount expressed to be payable in a currency other than dollars shall be paid in that other currency.

#### **34.9 Change of currency**

- (a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:
  - (i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Facility Agent (after consultation with the Borrowers); and
  - (ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Facility Agent (acting reasonably).
- (b) If a change in any currency of a country occurs, this Agreement will, to the extent the Facility Agent (acting reasonably and after consultation with the Borrowers) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the Relevant Interbank Market and otherwise to reflect the change in currency.

#### **34.10 Currency Conversion**

- (a) For the purpose of, or pending any payment to be made by any Servicing Party under any Finance Document, such Servicing Party may convert any moneys received or recovered by it from one currency to another, at a market rate of exchange.
- (b) The obligations of any Transaction Obligor to pay in the due currency shall only be satisfied to the extent of the amount of the due currency purchased after deducting the costs of conversion.

#### **34.11 Disruption to Payment Systems etc.**

If either the Facility Agent determines (in its discretion) that a Disruption Event has occurred or the Facility Agent is notified by a Borrower that a Disruption Event has occurred:

- (a) the Facility Agent may, and shall if requested to do so by a Borrower, consult with the Borrowers with a view to agreeing with the Borrowers such changes to the operation or administration of the Facility as the Facility Agent may deem necessary in the circumstances;
- (b) the Facility Agent shall not be obliged to consult with the Borrowers in relation to any changes mentioned in paragraph (a) above if, in its opinion, it is not practicable to do so in the circumstances and, in any event, shall have no obligation to agree to such changes;
- (c) the Facility Agent may consult with the Finance Parties in relation to any changes mentioned in paragraph (a) above but shall not be obliged to do so if, in its opinion, it is not practicable to do so in the circumstances;

- (d) any such changes agreed upon by the Facility Agent and the Borrowers shall (whether or not it is finally determined that a Disruption Event has occurred) be binding upon the Parties and any Transaction Obligors as an amendment to (or, as the case may be, waiver of) the terms of the Finance Documents notwithstanding the provisions of Clause 43 (*Amendments and Waivers*);
- (e) the Facility Agent shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever (including, without limitation for negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Facility Agent) arising as a result of its taking, or failing to take, any actions pursuant to or in connection with this Clause 34.11 (*Disruption to Payment Systems etc.*); and
- (f) the Facility Agent shall notify the Finance Parties of all changes agreed pursuant to paragraph (d) above.

**35 SET-OFF**

A Finance Party may set off any matured obligation due from a Transaction Obligor under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to that Transaction Obligor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

**36 BAIL-IN**

Notwithstanding any other term of any Finance Document or any other agreement, arrangement or understanding between the parties to a Finance Document, each Party acknowledges and accepts that any liability of any party to a Finance Document under or in connection with the Finance Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

- (a) any Bail-In Action in relation to any such liability, including (without limitation):
  - (i) a reduction, in full or in part, in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;
  - (ii) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and
  - (iii) a cancellation of any such liability; and
- (b) a variation of any term of any Finance Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.

**37 NOTICES**

**37.1 Communications in writing**

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by fax or letter.

**37.2 Addresses**

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents are:

- (a) in the case of the Borrowers, that specified in Schedule 1 (*The Parties*);
- (b) in the case of each Lender or any other Obligor, that specified in Schedule 1 (*The Parties*) or, if it becomes a Party after the date of this Agreement, that notified in writing to the Facility Agent on or before the date on which it becomes a Party;
- (c) in the case of the Facility Agent, that specified in Schedule 1 (*The Parties*); and
- (d) in the case of the Security Agent, that specified in Schedule 1 (*The Parties*),

or any substitute address, fax number or department or officer as the Party may notify to the Facility Agent (or the Facility Agent may notify to the other Parties, if a change is made by the Facility Agent) by not less than five Business Days' notice.

### **37.3 Delivery**

- (a) Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective:

- (i) if by way of fax, when received in legible form; or
- (ii) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under Clause 37.2 (*Addresses*), if addressed to that department or officer.

- (b) Any communication or document to be made or delivered to a Servicing Party will be effective only when actually received by that Servicing Party and then only if it is expressly marked for the attention of the department or officer of that Servicing Party specified in Schedule 1 (*The Parties*) (or any substitute department or officer as that Servicing Party shall specify for this purpose).
- (c) All notices from or to a Transaction Obligor or an Approved Manager shall be sent through the Facility Agent unless otherwise specified in any Finance Document.
- (d) Any communication or document made or delivered to the Borrowers in accordance with this Clause will be deemed to have been made or delivered to any of the Transaction Obligors.
- (e) Any communication or document which becomes effective, in accordance with paragraphs (a) to (d) above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

### **37.4 Notification of address and fax number**

Promptly upon receipt of notification of an address and fax number or change of address or fax number pursuant to Clause 37.2 (*Addresses*) or changing its own address or fax number, the Facility Agent shall notify the other Parties.

### **37.5 Electronic communication**

- (a) Any communication to be made between any two Parties under or in connection with the Finance Documents may be made by electronic mail or other electronic means (including, without limitation, by way of posting to a secure website) if those two Parties:
  - (i) notify each other in writing of their electronic mail address and/or any other information required to enable the transmission of information by that means; and

- (ii) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.
- (b) Any such electronic communication as specified in paragraph (a) above to be made between an Obligor and a Finance Party may only be made in that way to the extent that those two Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication.
- (c) Any such electronic communication as specified in paragraph (a) above made between any two Parties will be effective only when actually received (or made available) in readable form and in the case of any electronic communication made by a Party to the Facility Agent or the Security Agent only if it is addressed in such a manner as the Facility Agent or the Security Agent shall specify for this purpose.
- (d) Any electronic communication which becomes effective, in accordance with paragraph (c) above, after 5.00 p.m. in the place in which the Party to whom the relevant communication is sent or made available has its address for the purpose of this Agreement shall be deemed only to become effective on the following day.
- (e) Any reference in a Finance Document to a communication being sent or received shall be construed to include that communication being made available in accordance with this Clause 37.5 (*Electronic communication*).

### **37.6 English language**

- (a) Any notice given under or in connection with any Finance Document must be in English.
- (b) All other documents provided under or in connection with any Finance Document must be:
  - (i) in English; or
  - (ii) if not in English, and if so required by the Facility Agent, accompanied by a certified English translation prepared by a translator approved by the Facility Agent and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

## **38 CALCULATIONS AND CERTIFICATES**

### **38.1 Accounts**

In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by a Finance Party are *prima facie* evidence of the matters to which they relate.

### **38.2 Certificates and determinations**

Any certification or determination by a Finance Party of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

### **38.3 Day count convention**

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 days or, in any case where the practice in the Relevant Interbank Market differs, in accordance with that market practice.

**39 PARTIAL INVALIDITY**

If, at any time, any provision of a Finance Document is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions under the law of that jurisdiction nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

**40 REMEDIES AND WAIVERS**

No failure to exercise, nor any delay in exercising, on the part of any Secured Party, any right or remedy under a Finance Document shall operate as a waiver of any such right or remedy or constitute an election to affirm any Finance Document. No election to affirm any Finance Document on the part of a Secured Party shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in each Finance Document are cumulative and not exclusive of any rights or remedies provided by law.

**41 SETTLEMENT OR DISCHARGE CONDITIONAL**

Any settlement or discharge under any Finance Document between any Finance Party and any Transaction Obligor or any Approved Manager shall be conditional upon no security or payment to any Finance Party by any Transaction Obligor or any Approved Manager or any other person being set aside, adjusted or ordered to be repaid, whether under any insolvency law or otherwise.

**42 IRREVOCABLE PAYMENT**

If the Facility Agent considers that an amount paid or discharged by, or on behalf of, a Transaction Obligor or any Approved Manager or by any other person in purported payment or discharge of an obligation of that Transaction Obligor or that Approved Manager to a Secured Party under the Finance Documents is capable of being avoided or otherwise set aside on the liquidation or administration of that Transaction Obligor or otherwise, then that amount shall not be considered to have been unconditionally and irrevocably paid or discharged for the purposes of the Finance Documents.

**43 AMENDMENTS AND WAIVERS**

**43.1 Required consents**

- (a) Subject to Clause 43.2 (*All Lender matters*) and Clause 43.3 (*Other exceptions*) any term of the Finance Documents may be amended or waived only with the consent of the Majority Lenders and, in the case of an amendment, the Obligors and any such amendment or waiver will be binding on all Parties.
- (b) The Facility Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause 43 (*Amendments and Waivers*).
- (c) Without prejudice to the generality of Clause 30.8 (*Rights and discretions*), the Facility Agent may engage, pay for and rely on the services of lawyers in determining the consent level required for and effecting any amendment, waiver or consent under this Agreement.
- (d) Paragraph (c) of Clause 28.9 (*Pro rata interest settlement*) shall apply to this Clause 43 (*Amendments and Waivers*).



#### 43.2 All Lender matters

Subject to Clause 43.4 (*Replacement of Screen Rate*), an amendment of or waiver or consent in relation to any term of any Finance Document that has the effect of changing or which relates to:

- (a) the definition of "Majority Lenders" in Clause 1.1 (*Definitions*);
- (b) a postponement to or extension of the date of payment of any amount under the Finance Documents;
- (c) a reduction in the Margin or the amount of any payment of principal, interest, fees or commission payable;
- (d) a change in currency of payment of any amount under the Finance Documents;
- (e) an increase in any Commitment or the Total Commitments, an extension of any Availability Period or any requirement that a cancellation of Commitments reduces the Commitments rateably under the Facility;
- (f) a change to any Transaction Obligor other than in accordance with Clause 29 (*Changes to the Transaction Obligors*);
- (g) any provision which expressly requires the consent of all the Lenders;
- (h) this Clause 43 (*Amendments and Waivers*);
- (i) any change to the preamble (*Background*), Clause 2 (*The Facility*), Clause 3 (*Purpose*), Clause 5 (*Utilisation*), Clause 6.2 (*Effect of cancellation and prepayment on scheduled repayments*), Clause 7.5 (*Mandatory prepayment on sale or Total Loss*), Clause 8 (*Interest*), Clause 26 (*Accounts and application of Earnings*), Clause 28 (*Changes to the Lenders*), Clause 33 (*Sharing among the Finance Parties*), Clause 47 (*Governing Law*) or Clause 48 (*Enforcement*);
- (j) any release of, or material variation to, any Transaction Security, guarantee, indemnity or subordination arrangement set out in a Finance Document (except in the case of a release of Transaction Security as it relates to the disposal of an asset which is the subject of the Transaction Security and where such disposal is expressly permitted by the Majority Lenders or otherwise under a Finance Document);
- (k) (other than as expressly permitted by the provisions of any Finance Document), the nature or scope of:
  - (i) the guarantees and indemnities granted under Clause 17 (*Guarantee and Indemnity*);
  - (ii) the joint and several liability of the Borrowers under Clause 18 (*Joint and Several Liability of the Borrowers*);
  - (iii) the Security Assets; or
  - (iv) the manner in which the proceeds of enforcement of the Transaction Security are distributed,(except in the case of sub-paragraphs (iii) and (iv) above, insofar as it relates to a sale or disposal of an asset which is the subject of the Transaction Security where such sale or disposal is expressly permitted under this Agreement or any other Finance Document);

- (l) the release of the guarantees and indemnities granted under Clause 17 (*Guarantee and Indemnity*) or the release of the joint and several liability of the Borrowers under Clause 18 (*Joint and Several Liability of the Borrowers*) or of any Transaction Security unless permitted under this Agreement or any other Finance Document or relating to a sale or disposal of an asset which is the subject of the Transaction Security where such sale or disposal is expressly permitted under this Agreement or any other Finance Document, shall not be made, or given, without the prior consent of all the Lenders.

#### 43.3 Other exceptions

An amendment or waiver which relates to the rights or obligations of a Servicing Party, the Arranger or a Reference Bank (each in their capacity as such) may not be effected without the consent of that Servicing Party, the Arranger or that Reference Bank, as the case may be.

#### 43.4 Replacement of Screen Rate

- (a) Subject to Clause 43.3 (*Other exceptions*), if a Screen Rate Replacement Event has occurred in relation to the Screen Rate for dollars any amendment or waiver which relates to:
- (i) providing for the use of a Replacement Benchmark in relation to that currency in place of (or in addition to) that Screen Rate; and
  - (ii)
    - (A) aligning any provision of any Finance Document to the use of that Replacement Benchmark;
    - (B) enabling that Replacement Benchmark to be used for the calculation of interest under this Agreement (including, without limitation, any consequential changes required to enable that Replacement Benchmark to be used for the purposes of this Agreement);
    - (C) implementing market conventions applicable to that Replacement Benchmark;
    - (D) providing for appropriate fallback (and market disruption) provisions for that Replacement Benchmark; or
    - (E) adjusting the pricing to reduce or eliminate, to the extent reasonably practicable, any transfer of economic value from one Party to another as a result of the application of that Replacement Benchmark (and if any adjustment or method for calculating any adjustment has been formally designated, nominated or recommended by the Relevant Nominating Body, the adjustment shall be determined on the basis of that designation, nomination or recommendation),

may be made with the consent of the Facility Agent (acting on the instructions of the Majority Lenders) and the Borrowers.

- (b) If any Lender fails to respond to a request for an amendment or waiver described in paragraph (a) above within 10 Business Days (or such longer time period in relation to any request which the Borrowers and the Facility Agent may agree) of that request being made:
- (i) its Commitment or its participation in the Loan (as the case may be) shall not be included for the purpose of calculating the Total Commitments or the amount of the Loan (as applicable) when ascertaining whether any relevant percentage of Total

Commitments or the aggregate of participations in the Loan (as applicable) has been obtained to approve that request; and

- (ii) its status as a Lender shall be disregarded for the purpose of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve that request.

#### **43.5 Obligor Intent**

Without prejudice to the generality of Clauses 1.2 (*Construction*), 17.4 (*Waiver of defences*), and 18.2 (*Waiver of defences*), each Obligor expressly confirms that it intends that any guarantee contained in this Agreement or any other Finance Document and any Security created by any Finance Document shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following: business acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

### **44 CONFIDENTIAL INFORMATION**

#### **44.1 Confidentiality**

Each Finance Party agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 44.2 (*Disclosure of Confidential Information*) and Clause 44.3 (*Disclosure to numbering service providers*) and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information.

#### **44.2 Disclosure of Confidential Information**

Any Finance Party may disclose:

- (a) to any of its Affiliates and Related Funds and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives such Confidential Information as that Finance Party shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;
- (b) to any person:
  - (i) to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Finance Documents or which succeeds (or which may potentially succeed) it as Facility Agent or Security Agent and, in each case, to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
  - (ii) with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, one or more Finance

Documents and/or one or more Transaction Obligors and to any of that person's Affiliates, Related Funds, Representatives and professional advisers;

- (iii) appointed by any Finance Party or by a person to whom sub-paragraph (i) or (ii) of paragraph (b) above applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf (including, without limitation, any person appointed under paragraph (c) of Clause 30.15 (*Relationship with the other Finance Parties*));
- (iv) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in sub-paragraph (i) or (ii) of paragraph (b) above;
- (v) to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;
- (vi) to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitrations, administrative or other investigations, proceedings or disputes;
- (vii) to whom or for whose benefit that Finance Party charges, assigns or otherwise creates Security (or may do so) pursuant to Clause 28.8 (*Security over Lenders' rights*);
- (viii) who is a Party, a member of the Group or any related entity of a Transaction Obligor;
- (ix) as a result of the registration of any Finance Document as contemplated by any Finance Document or any legal opinion obtained in connection with any Finance Document; or
- (x) with the consent of the Parent Guarantor:

in each case, such Confidential Information as that Finance Party shall consider appropriate if:

- (A) in relation to sub-paragraphs (i), (ii) and (iii) of paragraph (b) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking except that there shall be no requirement for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;
  - (B) in relation to sub-paragraph (iv) of paragraph (b) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is otherwise bound by requirements of confidentiality in relation to the Confidential Information they receive and is informed that some or all of such Confidential Information may be price-sensitive information;
  - (C) in relation to sub-paragraphs (v), (vi) and (vii) of paragraph (b) above, the person to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of that Finance Party, it is not practicable so to do in the circumstances;
- (c) to any person appointed by that Finance Party or by a person to whom sub-paragraph (i) or (ii) of paragraph (b) above applies to provide administration or settlement services in respect

of one or more of the Finance Documents including without limitation, in relation to the trading of participations in respect of the Finance Documents, such Confidential Information as may be required to be disclosed to enable such service provider to provide any of the services referred to in this paragraph (c) if the service provider to whom the Confidential Information is to be given has entered in to a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/ Settlement Service Providers or such other form of confidentiality undertaking agreed between the Borrowers and the relevant Finance Party;

- (d) to any rating agency (including its professional advisers) such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Finance Documents and/or the Transaction Obligors if the rating agency to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information.

#### **44.3 Disclosure to numbering service providers**

- (a) Any Finance Party may disclose to any national or international numbering service provider appointed by that Finance Party to provide identification numbering services in respect of this Agreement, the Facility and/or one or more Transaction Obligors the following information:

- (i) names of Transaction Obligors;
- (ii) country of domicile of Transaction Obligors;
- (iii) place of incorporation of Transaction Obligors;
- (iv) date of this Agreement;
- (v) Clause 47 (*Governing Law*);
- (vi) the names of the Facility Agent and the Arranger;
- (vii) date of each amendment and restatement of this Agreement;
- (viii) amount of Total Commitments;
- (ix) currency of the Facility;
- (x) type of Facility;
- (xi) ranking of Facility;
- (xii) Termination Date for Facility;
- (xiii) changes to any of the information previously supplied pursuant to sub-paragraphs (i) to (xii) above; and
- (xiv) such other information agreed between such Finance Party and the Borrowers,

to enable such numbering service provider to provide its usual syndicated loan numbering identification services.

- (b) The Parties acknowledge and agree that each identification number assigned to this Agreement, the Facility and/or one or more Transaction Obligors or Approved Managers by a numbering service provider and the information associated with each such number may be disclosed to users of its services in accordance with the standard terms and conditions of that numbering service provider.

- (c) Each Obligor represents, on behalf of itself and the other Transaction Obligors and each Approved Manager, that none of the information set out in sub-paragraphs (i) to (xiv) of paragraph (a) above is, nor will at any time be, unpublished price-sensitive information.

#### **44.4 Entire agreement**

This Clause 44 (*Confidential Information*) constitutes the entire agreement between the Parties in relation to the obligations of the Finance Parties under the Finance Documents regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

#### **44.5 Inside information**

Each of the Finance Parties acknowledges that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and each of the Finance Parties undertakes not to use any Confidential Information for any unlawful purpose.

#### **44.6 Notification of disclosure**

Each of the Finance Parties agrees (to the extent permitted by law and regulation) to inform the Borrowers:

- (a) of the circumstances of any disclosure of Confidential Information made pursuant to sub-paragraph (v) of paragraph (b) of Clause 44.2 (*Disclosure of Confidential Information*) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
- (b) upon becoming aware that Confidential Information has been disclosed in breach of this Clause 44 (*Confidential Information*).

#### **44.7 Continuing obligations**

The obligations in this Clause 44 (*Confidential Information*) are continuing and, in particular, shall survive and remain binding on each Finance Party for a period of 12 months from the earlier of:

- (a) the date on which all amounts payable by the Obligors under or in connection with this Agreement have been paid in full and all Commitments have been cancelled or otherwise cease to be available; and
- (b) the date on which such Finance Party otherwise ceases to be a Finance Party.

### **45 CONFIDENTIALITY OF FUNDING RATES AND REFERENCE BANK QUOTATIONS**

#### **45.1 Confidentiality and disclosure**

- (a) The Facility Agent and each Obligor agree to keep each Funding Rate (and, in the case of the Facility Agent, each Reference Bank Quotation) confidential and not to disclose it to anyone, save to the extent permitted by paragraphs (b), (c) and (d) below.
- (b) The Facility Agent may disclose:
  - (i) any Funding Rate (but not, for the avoidance of doubt, any Reference Bank Quotation) to the Borrowers pursuant to Clause 8.4 (*Notification of rates of interest*); and

- (ii) any Funding Rate or any Reference Bank Quotation to any person appointed by it to provide administration services in respect of one or more of the Finance Documents to the extent necessary to enable such service provider to provide those services if the service provider to whom that information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Facility Agent and the relevant Lender or Reference Bank, as the case may be.
- (c) The Facility Agent may disclose any Funding Rate or any Reference Bank Quotation, and each Obligor may disclose any Funding Rate, to:
- (i) any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives, if any person to whom that Funding Rate or Reference Bank Quotation is to be given pursuant to this sub-paragraph (i) is informed in writing of its confidential nature and that it may be price sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of that Funding Rate or Reference Bank Quotation or is otherwise bound by requirements of confidentiality in relation to it;
  - (ii) any person to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation if the person to whom that Funding Rate or Reference Bank Quotation is to be given is informed in writing of its confidential nature and that it may be price sensitive information except that there shall be no requirement to so inform if, in the opinion of the Facility Agent or the relevant Obligor, as the case may be, it is not practicable to do so in the circumstances;
  - (iii) any person to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes if the person to whom that Funding Rate or Reference Bank Quotation is to be given is informed in writing of its confidential nature and that it may be price sensitive information except that there shall be no requirement to so inform if, in the opinion of the Facility Agent or the relevant Obligor, as the case may be, it is not practicable to do so in the circumstances; and
  - (iv) any person with the consent of the relevant Lender or Reference Bank, as the case may be.
- (d) The Facility Agent's obligations in this Clause 45 (*Confidentiality of Funding Rates and Reference Bank Quotations*) relating to Reference Bank Quotations are without prejudice to its obligations to make notifications under Clause 8.4 (*Notification of rates of interest*) **provided that** (other than pursuant to sub-paragraph (i) of paragraph (b) above) the Facility Agent shall not include the details of any individual Reference Bank Quotation as part of any such notification.

#### **45.2 Related obligations**

- (a) The Facility Agent and each Obligor acknowledge that each Funding Rate (and, in the case of the Facility Agent, each Reference Bank Quotation) is or may be price sensitive information and that its use may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and the Facility Agent and each Obligor undertake not to use any Funding Rate or, in the case of the Facility Agent, any Reference Bank Quotation for any unlawful purpose.

- (b) The Facility Agent and each Obligor agree (to the extent permitted by law and regulation) to inform the relevant Lender or Reference Bank, as the case may be:
- (i) of the circumstances of any disclosure made pursuant to sub-paragraph (ii) of paragraph (c) of Clause 45.1 (*Confidentiality and disclosure*) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
  - (ii) upon becoming aware that any information has been disclosed in breach of this Clause 45 (*Confidentiality of Funding Rates and Reference Bank Quotations*).

**45.3 No Event of Default**

No Event of Default will occur under Clause 27.4 (*Other obligations*) by reason only of an Obligor's failure to comply with this Clause 45 (*Confidentiality of Funding Rates and Reference Bank Quotations*).

**46 COUNTERPARTS**

Each Finance Document may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Finance Document.



## SECTION 12

### GOVERNING LAW AND ENFORCEMENT

#### 47 GOVERNING LAW

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

#### 48 ENFORCEMENT

##### 48.1 Jurisdiction

- (a) Unless specifically provided in another Finance Document in relation to that Finance Document, the courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with any Finance Document (including a dispute regarding the existence, validity or termination of any Finance Document or any non-contractual obligation arising out of or in connection with any Finance Document) (a "**Dispute**").
- (b) The Obligors accept that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Obligor will argue to the contrary.
- (c) This Clause 48.1 (*Jurisdiction*) is for the benefit of the Secured Parties only. As a result, no Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Secured Parties may take concurrent proceedings in any number of jurisdictions.

##### 48.2 Service of process

- (a) Without prejudice to any other mode of service allowed under any relevant law, each Obligor (other than an Obligor incorporated in England and Wales):
  - (i) irrevocably appoints Saville & Co. at its registered office for the time being, presently at One Carey Lane, London EC2V 8AE, England as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document; and
  - (ii) agrees that failure by a process agent to notify the relevant Obligor of the process will not invalidate the proceedings concerned.
- (b) If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Borrowers (on behalf of all the Obligors) must immediately (and in any event within 5 days of such event taking place) appoint another agent on terms acceptable to the Facility Agent. Failing this, the Facility Agent may appoint another agent for this purpose.

**This Agreement has been entered into and amended and restated on the dates stated at the beginning of this Agreement.**

**SCHEDULE 1**

**THE PARTIES**

**PART A**

**THE OBLIGORS**

<b>Name of Borrower</b>	<b>Place of Incorporation</b>	<b>Registration number (or equivalent, if any)</b>	<b>Address for Communication</b>
GLOBAL SHIP LEASE 30 LLC	Marshall Islands	964614	c/o the Approved Technical Manager 3-5 Menandrou Street 145 61 Kifissia Greece  Fax: +30 210 80 84 224  email: <a href="mailto:legalconfidential@technomar.gr">legalconfidential@technomar.gr</a>
GLOBAL SHIP LEASE 31 LLC	Marshall Islands	964615	c/o the Approved Technical Manager 3-5 Menandrou Street 145 61 Kifissia Greece  Fax:+30 210 80 84 224  email: <a href="mailto:legalconfidential@technomar.gr">legalconfidential@technomar.gr</a>
GLOBAL SHIP LEASE 32 LLC	Marshall Islands	964616	c/o the Approved Technical Manager 3-5 Menandrou Street 145 61 Kifissia Greece  Fax:+30 210 80 84 224  email: <a href="mailto:legalconfidential@technomar.gr">legalconfidential@technomar.gr</a>
GLOBAL SHIP LEASE 33 LLC	Liberia	960149	c/o the Approved Technical Manager 3-5 Menandrou Street 145 61 Kifissia Greece  Fax:+30 210 80 84 224  email: <a href="mailto:legalconfidential@technomar.gr">legalconfidential@technomar.gr</a>
GLOBAL SHIP LEASE 34 LLC	Liberia	960150	c/o the Approved Technical Manager 3-5 Menandrou Street 145 61 Kifissia Greece  Fax:+30 210 80 84 224  email: <a href="mailto:legalconfidential@technomar.gr">legalconfidential@technomar.gr</a>

<b>Name of Parent Guarantor</b>	<b>Place of Incorporation</b>	<b>Registration number (or equivalent, if any)</b>	<b>Address for Communication</b>
GLOBAL SHIP LEASE, INC.	Marshall Islands	28891	c/o the Approved Technical Manager 3-5 Menandrou Street 145 61 Kifissia Greece  Fax:+30 210 80 84 224  email: legalconfidential@technomar.gr

**PART B**

**THE ORIGINAL LENDERS**

**Name of Original Lender**

**Commitment**

**Address for Communication**

HELLENIC BANK PUBLIC  
COMPANY LIMITED

\$59,000,000

Corner Limassol & 200 Athalassa  
Avenue, 2025 Strovolos, Nicosia,  
Cyprus Attn: Ship Finance

Fax: +357 22 50 0095

email: [shipfinance@hellenicbank.com](mailto:shipfinance@hellenicbank.com)

**PART C**

**THE SERVICING PARTIES**

**Name of Facility Agent**

HELLENIC BANK PUBLIC  
COMPANY LIMITED

**Address for Communication**

Corner Limassol & 200 Athalassa Avenue, 2025  
Strovolos, Nicosia, Cyprus Attn: Ship Finance

Fax: +357 22 50 0095

email: [shipfinance@hellenicbank.com](mailto:shipfinance@hellenicbank.com)

**Name of Security Agent**

HELLENIC BANK PUBLIC  
COMPANY LIMITED

**Address for Communication**

Corner Limassol & 200 Athalassa Avenue, 2025  
Strovolos, Nicosia, Cyprus Attn: Ship Finance

Fax: +357 22 50 0095

email: [shipfinance@hellenicbank.com](mailto:shipfinance@hellenicbank.com)

## SCHEDULE 2

### PART A

#### CONDITIONS PRECEDENT

##### CONDITIONS PRECEDENT TO A UTILISATION REQUEST

#### 1 Obligors

- 1.1 A copy of the constitutional documents of each Transaction Obligor and each Approved Manager.
- 1.2 A copy of a resolution of the board of directors or, as the case may be, the members of each Transaction Obligor and each Approved Manager:
  - (a) approving the terms of, and the transactions contemplated by, the Finance Documents to which it is a party and resolving that it execute the Finance Documents to which it is a party;
  - (b) authorising a specified person or persons to execute the Finance Documents to which it is a party on its behalf; and
  - (c) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, each Utilisation Request and each Selection Notice) to be signed and/or despatched by it under, or in connection with, the Finance Documents to which it is a party.
- 1.3 An original of the power of attorney of any Transaction Obligor and any Approved Manager authorising a specified person or persons to execute the Finance Documents to which it is a party.
- 1.4 A specimen of the signature of each person authorised by the resolution referred to in paragraph 1.2 above.
- 1.5 A certificate of each Transaction Obligor and each Approved Manager that is incorporated outside the UK (signed by a director) certifying either that (i) it has not delivered particulars of any UK Establishment to the Registrar of Companies as required under the Overseas Regulations or (ii) it has a UK Establishment and specifying the name and registered number under which it is registered with the Registrar of Companies.
- 1.6 A certificate of an authorised signatory of the relevant Transaction Obligor and the relevant Approved Manager certifying that each copy document relating to it specified in this Schedule 2 of Schedule 2 (*Conditions Precedent*) is correct, complete and in full force and effect as at a date no earlier than the date of this Agreement.

#### 2 Finance Documents

- 2.1 If applicable, any subordination agreement in relation to any Permitted Inter-Company Loans.
- 2.2 A duly executed original of any Finance Document not otherwise referred to in this Schedule 2 (*Conditions Precedent*).
- 2.3 A duly executed original of any other document required to be delivered by each Finance Document if not otherwise referred to this Schedule 2 (*Conditions Precedent*).

### **3 Security**

- 3.1 A duly executed original of the Account Security in relation to each Account and, where applicable, the Amended and Restated Deed of Pledge in relation to that Account Security and of the LLC Interests Security in respect of each Borrower (and of each document to be delivered under each of them).
- 3.2 If applicable, a duly executed original of the Subordinated Debt Security.

### **4 Legal opinions**

- 4.1 A legal opinion of Watson Farley & Williams legal advisers to the Arranger, the Facility Agent and the Security Agent in England, substantially in the form distributed to the Original Lenders before signing this Agreement.
- 4.2 If a Transaction Obligor or an Approved Manager is incorporated in a jurisdiction other than England and Wales, a legal opinion of the legal advisers to the Arranger, the Facility Agent and the Security Agent in the relevant jurisdiction, substantially in the form distributed to the Original Lenders before signing this Agreement.

### **5 Other documents and evidence**

- 5.1 A copy of the MOA relating to the Ship to be financed by the Tranche the Utilisation of which is requested and of all documents signed or issued by the parties thereto under or in connection with it, together with such documentary evidence as the Facility Agent and its legal advisers may require in relation to the due authorisation and execution of that MOA by each of the parties thereto.
- 5.2 Evidence that any process agent referred to in Clause 48.2 (*Service of process*), if not an Obligor, has accepted its appointment.
- 5.3 A copy of any other Authorisation or other document, opinion or assurance which the Facility Agent considers to be necessary or desirable (if it has notified the Borrowers accordingly) in connection with the entry into and performance of the transactions contemplated by any Transaction Document or for the validity and enforceability of any Transaction Document.
- 5.4 The Original Financial Statements.
- 5.5 The original of any mandates or other documents required in connection with opening or operation of Accounts.
- 5.6 Such evidence as the Facility Agent may require for the Finance Parties to be able to satisfy each of their "know your customer" or similar identification procedures in relation to the transactions contemplated by the Finance Documents.

## PART B

### CONDITIONS PRECEDENT TO UTILISATION

The following are the documents referred to in paragraph (b) Clause 4.2 (*Further conditions precedent*). In this Part B of Schedule 2 (*Conditions Precedent*), the following definitions have the following meanings:

- (a) “**Relevant Borrower**” means the Borrower which is or is to become the owner of the Relevant Ship;
- (b) “**Relevant Tranche**” means the Tranche being borrowed on the relevant Utilisation Date.
- (c) “**Relevant Ship**” means the Ship which is relevant to the Tranche being borrowed on the relevant Utilisation Date.

#### 1 Borrowers

A certificate of an authorised signatory of each Borrower certifying that each copy document which it is required to provide under this Part B of Schedule 2 (*Conditions Precedent*) is correct, complete and in full force and effect as at the Utilisation Date of the Advance of the Relevant Tranche.

#### 2 Ship and other security

- 2.1 A duly executed original of the Mortgage, any Deed of Covenant, the General Assignment and any Charterparty Assignment in respect of the Relevant Ship and of each document to be delivered under or pursuant to each of them together with documentary evidence that the Mortgage in respect of the Relevant Ship has been duly registered as a valid first preferred or, as the case may be, priority mortgage in accordance with the laws of the jurisdiction of its Approved Flag.
- 2.2 Documentary evidence that the Relevant Ship:
  - (a) has been unconditionally delivered by the relevant Seller to, and accepted by, the Relevant Borrower under the relevant MOA and that the full purchase price payable and all other sums due to relevant Seller under the relevant MOA, other than the sums to be financed pursuant to the Advance of the Relevant Tranche, have been paid to the relevant Seller;
  - (b) is definitively and permanently registered in the name of the Relevant Borrower under the Approved Flag applicable to the Relevant Ship;
  - (c) is in the absolute and unencumbered ownership of the Relevant Borrower save as contemplated by the Finance Documents;
  - (d) each Relevant Vessel (other than Ship E) maintains the Approved Classification with the Approved Classification Society free of all overdue recommendations and conditions of the Approved Classification Society;
  - (e) in respect of Ship E, maintains the Approved Classification with the Approved Classification Society and is subject to renewal survey on its Delivery Date;
  - (f) is insured in accordance with the provisions of this Agreement and all requirements in this Agreement in respect of insurances have been complied with; and
  - (g) is employed under the Initial Charterparty in relation to the Relevant Ship.



- 2.3 Documents establishing that the Relevant Ship will, as from the Delivery Date of that Ship, be managed commercially by its Approved Commercial Manager and managed technically by its Approved Technical Manager on terms acceptable to the Facility Agent acting with the authorisation of all of the Lenders, together with:
- (a) a Manager's Undertaking for each of the Approved Technical Manager and the Approved Commercial Manager of the Relevant Ship; and
  - (b) copies of the Approved Technical Manager's Document of Compliance and of the Relevant Ship's Safety Management Certificate (together with any other details of the applicable Safety Management System which the Facility Agent requires) and of any other documents required under the ISM Code and the ISPS Code in relation to the Relevant Ship including without limitation an ISSC;
- 2.4 An opinion from an independent insurance consultant acceptable to the Facility Agent on such matters relating to the Insurances of the Relevant Ship as the Facility Agent may require.
- 2.5 A copy of the Initial Charterparty in respect of the Relevant Ship and of all documents signed or issued by the parties thereto under or in connection with them, together with such documentary evidence as the Facility Agent and its legal advisers may require in relation to the due authorisation and execution of that Initial Charterparty by each of the parties thereto.
- 2.6 A duly executed original of the GSL Indenture Letter.

### **3 Legal opinions**

Legal opinions of the legal advisers to the Arranger, the Facility Agent and the Security Agent in the jurisdiction of the Approved Flag of the Relevant Ship and such other relevant jurisdictions as the Facility Agent may require.

### **4 Other documents and evidence**

- 4.1 Evidence that any process agent referred to in Clause 48.2 (*Service of process*), if not an Obligor, has accepted its appointment.
- 4.2 Evidence that the fees, costs and expenses then due from the Borrowers pursuant to Clause 11 (*Fees*) and Clause 16 (*Costs and Expenses*) have been paid or will be paid by the Utilisation Date of the Relevant Tranche (or within a reasonable time thereafter subject to Facility Agent's prior consent).

**PART C**

**CONDITIONS SUBSEQUENT**

**1 Class maintenance certificate**

- 1.1** On or within 60 days of the Delivery Date of Ship E or an such other later date as the Facility Agent may specify, a copy of the class maintenance certificate evidencing that Ship E maintains the Approved Classification with the Approved Classification Society free of all overdue recommendations and conditions of the Approved Classification Society.
- (a) On or within 70 days of the Delivery Date of Ship E or an such other later date as the Facility Agent may specify, a copy of the class summary report of that Ship.

**SCHEDULE 3**  
**REQUESTS**  
**PART A**  
**UTILISATION REQUEST**

From: **GLOBAL SHIP LEASE 30 LLC**  
**GLOBAL SHIP LEASE 31 LLC**  
**GLOBAL SHIP LEASE 32 LLC**  
Trust Company Complex  
Ajeltake Road, Ajeltake Island  
Majuro, MH96960  
Marshall Islands

and

**GLOBAL SHIP LEASE 33 LLC**  
**GLOBAL SHIP LEASE 34 LLC**  
80 Broad Street  
Monrovia  
Liberia

as Borrowers

To: **HELLENIC BANK PUBLIC COMPANY LIMITED**  
  
Corner Limassol Avenue & 200 Athalassa Avenue  
2025 Strovolos, Nicosia  
Cyprus

as Facility Agent

Dated: [●] 2019

Dear Sirs

**GLOBAL SHIP LEASE 30 LLC, GLOBAL SHIP LEASE 31 LLC, GLOBAL SHIP LEASE 32 LLC, GLOBAL SHIP LEASE 33 LLC and GLOBAL SHIP LEASE 34 LLC - US\$59,000,000 Facility Agreement dated 23 May 2019 as amended and restated by a deed of accession, amendment and restatement dated [●] 2019 (the "Agreement")**

- 1 We refer to the Agreement. This is the Utilisation Request. Terms defined in the Agreement have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request.
- 2 We wish to borrow [the][an] Advance under Tranche [A][B][C][D][E] on the following terms:  

Proposed Utilisation Date:	[●] (or, if that is not a Business Day, the next Business Day)
Amount:	[●] or, if less, the Available Facility

Interest Period for the first Advance:

[•]

- 3 We confirm that each condition specified in Clause 4.1 (*Initial conditions precedent*) and Clause 4.2 (*Further conditions precedent*) of the Agreement as they relate to the Advance to which this Utilisation Request refers is satisfied on the date of this Utilisation Request.
- 4 The net proceeds of this Advance should be credited to [account].

5 This Utilisation Request is irrevocable.

Yours faithfully

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[•]  
authorised signatory for  
**GLOBAL SHIP LEASE 30 LLC**

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[•]  
authorised signatory for  
**GLOBAL SHIP LEASE 31 LLC**

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[•]  
authorised signatory for  
**GLOBAL SHIP LEASE 32 LLC**

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[•]  
authorised signatory for  
**GLOBAL SHIP LEASE 33 LLC**

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[•]  
authorised signatory for  
**GLOBAL SHIP LEASE 34 LLC**

**PART B**  
**SELECTION NOTICE**

From: **GLOBAL SHIP LEASE 30 LLC**  
**GLOBAL SHIP LEASE 31 LLC**  
**GLOBAL SHIP LEASE 32 LLC**  
Trust Company Complex  
Ajeltake Road, Ajeltake Island  
Majuro, MH96960  
Marshall Islands

and

**GLOBAL SHIP LEASE 33 LLC**  
**GLOBAL SHIP LEASE 34 LLC**  
80 Broad Street  
Monrovia  
Liberia

as Borrowers

To: **HELLENIC BANK PUBLIC COMPANY LIMITED**  
Corner Limassol Avenue & 200 Athalassa Avenue  
2025 Strovolos, Nicosia  
Cyprus

as Facility Agent

Dated: [●] 2019

Dear Sirs

**GLOBAL SHIP LEASE 30 LLC, GLOBAL SHIP LEASE 31 LLC, GLOBAL SHIP LEASE 32 LLC, GLOBAL SHIP LEASE 33 LLC and GLOBAL SHIP LEASE 34 US\$59,000,000 Facility Agreement dated 23 May 2019 (the "Agreement")**

- 1 We refer to the Agreement. This is a Selection Notice. Terms defined in the Agreement have the same meaning in this Selection Notice unless given a different meaning in this Selection Notice.
- 2 We request [that the next Interest Period for the Loan be [●]] OR [an Interest Period for a part of the Loan in an amount equal to [●] (which is the amount of the Repayment Instalment next due) ending on [●] (which is the Repayment Date relating to that Repayment Instalment) and that the Interest Period for the remaining part of the Loan shall be [●].
- 3 This Selection Notice is irrevocable.

Yours faithfully

\_\_\_\_\_  
[●]  
authorised signatory for  
**GLOBAL SHIP LEASE 30 LLC**

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[•]  
authorised signatory for  
**GLOBAL SHIP LEASE 31 LLC**

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[•]  
authorised signatory for  
**GLOBAL SHIP LEASE 32 LLC**

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[•]  
authorised signatory for  
**GLOBAL SHIP LEASE 33 LLC**

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[•]  
authorised signatory for  
**GLOBAL SHIP LEASE 34 LLC**

## SCHEDULE 4

### FORM OF TRANSFER CERTIFICATE

To: **HELLENIC BANK PUBLIC COMPANY LIMITED** as Facility Agent

From: [The Existing Lender] (the “Existing Lender”) and [The New Lender] (the “New Lender”)

Dated: [●]

Dear Sirs

**GLOBAL SHIP LEASE 30 LLC, GLOBAL SHIP LEASE 31 LLC, GLOBAL SHIP LEASE 32 LLC, GLOBAL SHIP LEASE 33 LLC and GLOBAL SHIP LEASE 34 LLC – US\$59,000,000 Facility Agreement dated 23 May 2019 as amended and restated by a Deed of Accession, Amendment and Restatement dated [●] 2019 (the “Agreement”)**

We refer to the Agreement. This is a Transfer Certificate. Terms defined in the Agreement have the same meaning in this Transfer Certificate unless given a different meaning in this Transfer Certificate.

- 1 We refer to Clause 28.5 (*Procedure for transfer*) of the Agreement:
  - (a) The Existing Lender and the New Lender agree to the Existing Lender transferring to the New Lender by novation all of the Existing Lender's rights and obligations under the Agreement and the other Finance Documents which relate to that portion of the Existing Lender's Commitment and participation in the Loan under the Agreement as specified in the Schedule in accordance with Clause 28.5 (*Procedure for transfer*) of the Agreement.
  - (b) The proposed Transfer Date is [●].
  - (c) The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of Clause 37.2 (*Addresses*) of the Agreement are set out in the Schedule.
- 2 The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in paragraph (c) of Clause 28.4 (*Limitation of responsibility of Existing Lenders*) of the Agreement.
- 3 This Transfer Certificate may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Transfer Certificate.
- 4 This Transfer Certificate [and any non-contractual obligations arising out of or in connection with it] [is/are] governed by English law.
- 5 This Transfer Certificate has been entered into on the date stated at the beginning of this Transfer Certificate.

**Note: The execution of this Transfer Certificate may not transfer a proportionate share of the Existing Lender's interest in the Transaction Security in all jurisdictions. It is the responsibility of the New Lender to ascertain whether any other documents or other formalities are required to perfect a transfer of such a share in the Existing Lender's Transaction Security in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.**



**THE SCHEDULE**

**Commitment/rights and obligations to be transferred**

*[insert relevant details]*

[Facility Office address, fax number and attention details  
for notices and account details for payments.]

[Existing Lender]

[New Lender]

By: [●]

By: [●]

This Transfer Certificate is accepted by the Facility Agent and the Transfer Date is confirmed as [●].

[Facility Agent]

By: [●]

## SCHEDULE 5

### FORM OF ASSIGNMENT AGREEMENT

To: **HELENIC BANK PUBLIC COMPANY LIMITED** as Facility Agent and **GLOBAL SHIP LEASE 30 LLC, GLOBAL SHIP LEASE 31 LLC, GLOBAL SHIP LEASE 32 LLC, GLOBAL SHIP LEASE 33 LLC and GLOBAL SHIP LEASE 34 LLC** as Borrowers, for and on behalf of each Transaction Obligor and each Approved Manager

From: [the Existing Lender] (the “Existing Lender”) and [the New Lender] (the “New Lender”)

Dated: [●]

Dear Sirs

**GLOBAL SHIP LEASE 30 LLC, GLOBAL SHIP LEASE 31 LLC, GLOBAL SHIP LEASE 32 LLC, GLOBAL SHIP LEASE 33 LLC and GLOBAL SHIP LEASE 34 LLC – US\$59,000,000 Facility Agreement dated 23 May 2019 as amended and restated by a deed of accession, amendment and restatement dated [●] 2019 (the “Agreement”)**

- 1 We refer to the Agreement. This is an Assignment Agreement. Terms defined in the Agreement have the same meaning in this Assignment Agreement unless given a different meaning in this Assignment Agreement.
- 2 We refer to Clause 28.6 (*Procedure for assignment*) of the Agreement:
  - (a) The Existing Lender assigns absolutely to the New Lender all the rights of the Existing Lender under the Agreement, the other Finance Documents and in respect of the Transaction Security which correspond to that portion of the Existing Lender’s Commitment and participations in the Loan under the Agreement as specified in the Schedule.
  - (b) The Existing Lender is released from all the obligations of the Existing Lender which correspond to that portion of the Existing Lender’s Commitments and participations in the Loan under the Agreement specified in the Schedule.
  - (c) The New Lender becomes a Party as a Lender and is bound by obligations equivalent to those from which the Existing Lender is released under paragraph (b) above.
  - (d) All rights and interests (present, future or contingent) which the Existing Lender has under or by virtue of the Finance Documents are assigned to the New Lender absolutely, free of any defects in the Existing Lender’s title and of any rights or equities which any Borrower or any other Transaction Obligor or Approved Manager had against the Existing Lender.
- 3 The proposed Transfer Date is [●].
- 4 On the Transfer Date the New Lender becomes Party to the Finance Documents as a Lender.
- 5 The Facility Office and address, fax, number and attention details for notices of the New Lender for the purposes of Clause 37.2 (*Addresses*) of the Agreement are set out in the Schedule.
- 6 The New Lender expressly acknowledges the limitations on the Existing Lender’s obligations set out in paragraph (c) of Clause 28.4 (*Limitation of responsibility of Existing Lenders*) of the Agreement.

- 7 This Assignment Agreement acts as notice to the Facility Agent (on behalf of each Finance Party) and, upon delivery in accordance with Clause 28.7 (*Copy of Transfer Certificate or Assignment Agreement to Borrowers*) of the Agreement, to the Borrowers (on behalf of each Transaction Obligor and each Approved Manager) of the assignment referred to in this Assignment Agreement.
- 8 This Assignment Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Assignment Agreement.
- 9 This Assignment Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
- 10 This Assignment Agreement has been entered into on the date stated at the beginning of this Assignment Agreement.

**Note: The execution of this Assignment Agreement may not transfer a proportionate share of the Existing Lender's interest in the Transaction Security in all jurisdictions. It is the responsibility of the New Lender to ascertain whether any other documents or other formalities are required to perfect a transfer of such a share in the Existing Lender's Transaction Security in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.**

**THE SCHEDULE**

**Commitment rights and obligations to be transferred by assignment, release and accession**

*[insert relevant details]*

[Facility office address, fax number and attention details for notices  
and account details for payments]

[Existing Lender]

[New Lender]

By: [●]

By: [●]

This Assignment Agreement is accepted by the Facility Agent and the Transfer Date is confirmed as [●].

Signature of this Assignment Agreement by the Facility Agent constitutes confirmation by the Facility Agent of receipt of notice of the assignment referred to herein, which notice the Facility Agent receives on behalf of each Finance Party.

[Facility Agent]

By:

SCHEDULE 6

FORM OF COMPLIANCE CERTIFICATE

To: **HELLENIC BANK PUBLIC COMPANY LIMITED**  
Corner Limassol Avenue & 200 Athalassa Avenue  
2025 Strovolos, Nicosia  
Cyprus

as Facility Agent

From: **GLOBAL SHIP LEASE, INC.**  
Trust Company Complex  
Ajeltake Road, Ajeltake Island  
Majuro, MH96960  
Marshall Islands

Dated: [●] 2019

Dear Sirs

**GLOBAL SHIP LEASE 30 LLC, GLOBAL SHIP LEASE 31 LLC, GLOBAL SHIP LEASE 32 LLC, GLOBAL SHIP LEASE 33 LLC and GLOBAL SHIP LEASE 34 LLC – US\$59,000,000 Facility Agreement dated 23 May 2019 as amended and restated by a deed of accession, amendment and restatement dated [●] 2019 (the “Agreement”)**

- 1 We refer to the Agreement. This is a Compliance Certificate. Terms defined in the Agreement have the same meaning when used in this Compliance Certificate unless given a different meaning in this Compliance Certificate.
- 2 We enclose with this certificate a copy of the [unaudited consolidated financial statements of the Parent Guarantor and the individual unaudited financial statements of each Borrower for the 3-month period ended [31 March][30 June][30 September][31 December] 20[●]]/[the audited consolidated annual financial statements of the Parent Guarantor and the audited individual annual financial statements of each Borrower for the financial year ended 31 December 20[●]]. The financial statements (i) have been prepared in accordance with all applicable laws and [GAAP][IFRS] consistently applied, (ii) [give a true and fair view of][fairly represent] the financial condition of the Parent Guarantor at the date of the financial statements.
- 3 We confirm that, on the basis of the calculations appended to this Certificate pursuant to Clause 20.3 (*Compliance Certificate*) of the Agreement, as at [31 March][30 June][30 September][31 December] 20[●]
  - (a) the amount standing to the credit of each Earnings Account is:
    - (i) \$[●] in relation to the Earnings Account of Borrower A;
    - (ii) \$[●] in relation to the Earnings Account of Borrower B;
    - (iii) \$[●] in relation to the Earnings Account of Borrower C;
    - (iv) \$[●] in relation to the Earnings Account of Borrower D;
    - (v) \$[●] in relation to the Earnings Account of Borrower E;
  - (b) the amount of Liquid Funds is \$[●]; and

(c) the Security Cover Ratio is [●] per cent.

4 We confirm that no Default is continuing [except for the following matter or event]. [set out all material details of matter or event]

Signed:

**GLOBAL SHIP LEASE, INC.**

Name:

Title: Chief Financial Officer

**SCHEDULE 7**

**DETAILS OF THE SHIPS**

Ship name	Name of the Borrower	IMO No.	Type	GRT	NRT	Approved Flag	Approved Classification Society	Approved Classification	Approved Commercial Manager	Approved Technical Manager
GSL ELENI (ex MSC NINGBO)	GLOBAL SHIP LEASE 30 LLC	9285677	Container Ship	83.133	51.532	Liberia	DNV GL	+100 A5 Container ship BWMF SOLASII2, Reg.19 ERS IW LC NAVOC RSCS MC +AUT	Conchart Commercial Inc. of the Marshall Islands	Technomar Shipping Inc. of Liberia
E.R. SANTA BARBARA (TBR GSL KALLIOPI)	GLOBAL SHIP LEASE 31 LLC	9285689	Container Ship	83.133	51.532	Liberia	DNV GL	+100 A5 Container ship BWMF SOLASII2, Reg.19 ERS IW LC NAVOC RSCS +MC AUT	Conchart Commercial Inc. of the Marshall Islands	Technomar Shipping Inc. of Liberia
GSL GRANIA (ex E.R. MONTECITO)	GLOBAL SHIP LEASE 32 LLC	9285653	Container Ship	83.133	51.532	Liberia	DNV GL	+100 A5 Container ship BWMF SOLASII2, Reg.19 ERS IW LC NAVOC RSCS MC +AUT	Conchart Commercial Inc. of the Marshall Islands	Technomar Shipping Inc. of Liberia
VERDI (TBR VINIA)	GLOBAL SHIP LEASE 33 LLC	9280653	Container Ship	65.247	37.549	Liberia	Bureau Veritas	+ HULL + MACH Container Ship Unrestricted navigation + VeriSTAR-Hull , + AUT-UMS , + AUT-PORT , MON-SHAFT INWATERSURVEY , LASHING , SDS	Conchart Commercial Inc. of the Marshall Islands	Technomar Shipping Inc. of Liberia
STRAUSS (TBR GSL CHRISTEL ELISABETH)	GLOBAL SHIP LEASE 34 LLC	9280641	Container Ship	65.247	37.549	Liberia	Bureau Veritas	+ HULL + MACH Container Ship Unrestricted navigation + VeriSTAR-Hull , + AUT-UMS , + AUT-PORT , MON-SHAFT INWATERSURVEY , LASHING , SDS	Conchart Commercial Inc. of the Marshall Islands	Technomar Shipping Inc. of Liberia

## SCHEDULE 8

### TIMETABLES

Delivery of a duly completed Utilisation Request (Clause 5.1 (*Delivery of a Utilisation Request*)) or a Selection Notice (Clause 9.1 (*Selection of Interest Periods*))

Two Business Days (or any shorter period as the Facility Agent may agree at the Borrowers' request) before the intended Utilisation Date (Clause 5.1 (*Delivery of a Utilisation Request*)) or the expiry of the preceding Interest Period (Clause 9.1 (*Selection of Interest Periods*))

Facility Agent notifies the Lenders of the Advance in accordance with Clause 5.4 (*Lenders' participation*)

Three Business Days before the intended Utilisation Date.

LIBOR s fixed

Quotation Day as of 11:00 am London time

Reference Bank Rate calculated by reference to available quotations in accordance with Clause 10.2 (*Calculation of Reference Bank Rate*)

Noon on the Quotation Day



EXECUTION PAGES

**BORROWERS**

**SIGNED** by )  
duly authorised as attorney-in-fact )  
for and on behalf of )  
**GLOBAL SHIP LEASE 30 LLC** )  
in the presence of: )

Witness' signature: )  
Witness' name: )  
Witness' address: )

**SIGNED** by )  
duly authorised as attorney-in-fact )  
for and on behalf of )  
**GLOBAL SHIP LEASE 31 LLC** )  
in the presence of: )

Witness' signature: )  
Witness' name: )  
Witness' address: )

**SIGNED** by )  
duly authorised as attorney-in-fact )  
for and on behalf of )  
**GLOBAL SHIP LEASE 32 LLC** )  
in the presence of: )

Witness' signature: )  
Witness' name: )  
Witness' address: )

**SIGNED** by )  
duly authorised as attorney-in-fact )  
for and on behalf of )  
**GLOBAL SHIP LEASE 33 LLC** )  
in the presence of: )

Witness' signature: )  
Witness' name: )  
Witness' address: )

**SIGNED** by )  
duly authorised as attorney-in-fact )  
for and on behalf of )  
**GLOBAL SHIP LEASE 34 LLC** )  
in the presence of: )

Witness' signature: )  
Witness' name: )  
Witness' address: )

**PARENT GUARANTOR**

**SIGNED** by )  
duly authorised as attorney-in-fact )  
for and on behalf of )  
**GLOBAL SHIP LEASE, INC.** )  
in the presence of: )

Witness' signature: )  
Witness' name: )  
Witness' address: )

**ARRANGER**

**SIGNED** by )  
duly authorised as attorney-in-fact )  
for and on behalf of )  
**HELLENIC BANK PUBLIC COMPANY LIMITED** )  
in the presence of: )

Witness' signature: )  
Witness' name: )  
Witness' address: )

**LENDER**

**SIGNED** by )  
duly authorised as attorney-in-fact )  
for and on behalf of )  
**HELLENIC BANK PUBLIC COMPANY LIMITED** )  
in the presence of: )

Witness' signature: )  
Witness' name: )  
Witness' address: )

**SECURITY AGENT**

**SIGNED** by )  
duly authorised as attorney-in-fact )  
for and on behalf of )  
**HELLENIC BANK PUBLIC COMPANY LIMITED** )  
in the presence of: )

Witness' signature: )  
Witness' name: )  
Witness' address: )

**FACILITY AGENT**

**SIGNED** by )  
duly authorised as attorney-in-fact )  
for and on behalf of )  
**HELLENIC BANK PUBLIC COMPANY LIMITED** )  
in the presence of: )

Witness' signature: )  
Witness' name: )  
Witness' address: )



**Dated 31 December 2018**

**US\$38,600,000**

**JUNIOR TERM LOAN FACILITY**

**LAERTIS MARINE LLC  
TELEMACHUS MARINE LLC  
PENELOPE MARINE LLC**  
as joint and several Borrowers  
and Hedge Guarantors

and

**POSEIDON CONTAINERS HOLDINGS LLC  
ODYSSIA CONTAINERS HOLDINGS LLC  
K&T MARINE LLC**  
as Guarantors

and

**WILMINGTON TRUST (LONDON) LIMITED**  
as Facility Agent

and

**WILMINGTON TRUST (LONDON) LIMITED**  
as Security Agent

**JUNIOR FACILITY AGREEMENT**

secured on m.v. "UASC AL KHOR", "ANTHEA Y" and "MAIRA XL"

**WHITE & CASE**  
London EC2N 1DW

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THIS AGREEMENT is made on 31 December 2018.

**PARTIES**

- (1) **LAERTIS MARINE LLC**, a limited liability company formed in the Marshall Islands whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Island, MH96960, Majuro, Marshall Islands as a borrower ("**Borrower A**")
- (2) **TELEMACHUS MARINE LLC**, a limited liability company formed in the Marshall Islands whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Island, MH96960, Majuro, Marshall Islands as a borrower ("**Borrower B**")
- (3) **PENELOPE MARINE LLC**, a limited liability company formed in the Marshall Islands whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Island, MH96960, Majuro, Marshall Islands as a borrower ("**Borrower C**")
- (4) **POSEIDON CONTAINERS HOLDINGS LLC**, a limited liability company formed in the Marshall Islands whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Islands, Majuro, Marshall Islands, MH96960 each a guarantor (the "**Guarantor A**")
- (5) **ODYSSIA CONTAINERS HOLDINGS LLC**, a limited liability company formed in the Marshall Islands whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Islands, Majuro, Marshall Islands, MH96960 (the "**Guarantor B**")
- (6) **K&T MARINE LLC**, a limited liability company formed in the Marshall Islands whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Islands, Majuro, Marshall Islands, MH96960 (the "**Guarantor C**" and, together with Guarantor A and Guarantor B, the "**Guarantors**" and each a "**Guarantor**")
- (7) **THE COMPANIES** listed in Part A of Schedule 1 (*The Parties*) as hedge guarantors (the "**Hedge Guarantors**")
- (8) **THE FINANCIAL INSTITUTIONS** listed in Part B of Schedule 1 (*The Parties*) as lenders (the "**Original Lenders**")
- (9) **THE FINANCIAL INSTITUTIONS** listed in Part B of Schedule 1 (*The Parties*) as hedge counterparties (the "**Hedge Counterparties**")
- (10) **WILMINGTON TRUST (LONDON) LIMITED** as agent of the other Finance Parties (the "**Facility Agent**")
- (11) **WILMINGTON TRUST (LONDON) LIMITED** as security agent for the Secured Parties (the "**Security Agent**")

**BACKGROUND**

- (A) The Lenders shall make available to the Borrowers a secured term loan facility in an amount of up to \$38,600,000 in three Tranches.
- (B) The Hedge Counterparties may enter into interest rate swap transactions with the Borrowers from time to time to hedge the Borrowers' exposure under this Agreement and the Senior Facility Agreement to interest rate fluctuations in accordance with the terms of this Agreement and the Senior Facility Agreement.

**OPERATIVE PROVISIONS**

## SECTION 1

### INTERPRETATION

#### 1 DEFINITIONS AND INTERPRETATION

##### 1.1 Definitions

In this Agreement:

**"2002 ISDA Master Agreement"** means the 2002 Master Agreement as published by the International Swaps and Derivatives Association, Inc.

**"Account Bank"** means Deutsche Bank AG Filiale Deutschlandgeschäft acting through its office at Adolphsplatz 7, 20457 Hamburg, Germany or any replacement bank or other financial institution as may be approved by the Facility Agent acting with the authorisation of the Lenders.

**"Account Security"** means a document creating Security over any Account in agreed form.

**"Accounts"** means the Earnings Accounts, the Dry-Docking Accounts, the Retention Account and the Liquidity Accounts.

**"Additional Guarantee"** means a guarantee to be executed by the New Parent in favour of the Security Agent on such terms and in such form as may be agreed between the Facility Agent (acting on the instructions of the Lenders) and the New Parent.

**"Additional Hedge Counterparty"** means a bank or financial institution which becomes a Hedge Counterparty in accordance with Clause 29.8 (*Additional Hedge Counterparties*)

**"Affiliate"** means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

**"AIF"** has the meaning given to the term under AIFMD Law.

**"AIFM"** has the meaning given to the term under AIFMD Law.

**"AIFMD"** means Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010, as the same may be amended, supplemented, superseded or re-adopted from time to time (whether with or without qualifications).

**"AIFMD Law"** means (a) the AIFMD, and (b) any applicable law of a member state of the European Union implementing the AIFMD.

**"Amendment and Restatement Deed"** means the amendment and restatement deed entered or to be entered into in connection with the amendment and restatement of the Senior Facility Agreement on or around the date hereof.

**"Anti-Bribery and Corruption Laws"** means: (i) the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, 1997, (ii) the Foreign Corrupt

Practices Act of 1977 of the United States of America, as amended by the Foreign Corrupt Practices Act Amendments of 1988 and 1998; and as may be further amended and supplemented from time to time, (iii) UKBA 2010 or (iv) any similar applicable law or regulation.

**“Anti-Money Laundering Laws”** means any applicable financial record keeping and reporting requirements and any law, guideline, official requirement or other regulatory measure or procedure implemented to combat money laundering (as defined in Article 1 of the Directive 2015/849/EC of the European Parliament and of the Council of the European Communities).

**“Approved Brokers”** means any firm or firms of insurance brokers approved in writing by the Facility Agent, acting with the authorisation of the Majority Lenders.

**“Approved Classification”** means, in relation to a Ship, as at the date of this Agreement, the classification in relation to that Ship specified in Schedule 7 (*Details of the Ships*) with the classification in relation to that Ship specified in Schedule 7 (*Details of the Ships*) or the equivalent classification available for vessels of the same age, type and specifications as the Ships with another Approved Classification Society which is a member of the International Association of Classification Societies.

**“Approved Classification Society”** means, in relation to a Ship, as at the date of this Agreement, the classification society in relation to that Ship specified in Schedule 7 (*Details of the Ships*) or any other classification society approved in writing by the Facility Agent acting with the authorisation of the Majority Lenders (such approval not to be unreasonably withheld).

**“Approved Commercial Manager”** means, in relation to a Ship, as at the date of this Agreement, the manager specified as the approved commercial manager in relation to that Ship in Schedule 7 (*Details of the Ships*) or any other person approved in writing by the Facility Agent acting with the authorisation of the Majority Lenders as the commercial manager of that Ship.

**“Approved Flag”** means, in relation to a Ship, as at the date of this Agreement, the flag in relation to that Ship specified in Schedule 7 (*Details of the Ships*) or Bahamas, Liberia, Cyprus, Malta or such other flag approved in writing by the Facility Agent acting with the authorisation of the Lenders.

**“Approved Manager”** means, in relation to a Ship, the Approved Commercial Manager or the Approved Technical Manager of that Ship.

**“Approved Technical Manager”** means, in relation to a Ship, as at the date of this Agreement, the manager specified as the approved technical manager in relation to that Ship in Schedule 7 (*Details of the Ships*) or any other person approved in writing by the Facility Agent acting with the authorisation of the Majority Lenders as the technical manager of that Ship.

**“Approved Valuer”** means Barry Rogliano Salles, Howe Robinson, Maersk Brokers, Maritime Strategies International (or any Affiliate of such person through which valuations are commonly issued) and any other firm or firms of independent sale and purchase shipbrokers to be mutually agreed between the Borrowers and the Facility Agent, acting with the authorisation of the Majority Lenders.

“**Arranger**” means any arranger that may be appointed in respect of this Agreement from time to time.

“**Assignable Charter**” means, in relation to a Ship, a Charter (other than the Initial Charter relative thereto) in respect of that Ship, the duration of which exceeds (or which is capable of exceeding, by virtue of any optional extensions or renewal) 12 months and which is entered into with a charterer acceptable to the Facility Agent.

“**Assignment Agreement**” means an agreement substantially in the form set out in Schedule 5 (*Form of Assignment Agreement*) or any other form agreed between the relevant assignor, the assignee and the Facility Agent (acting with the authorisation of the Majority Lenders), provided that if that other form does not contain the undertaking set out in the form set out in Schedule 5 (*Form of Assignment Agreement*) it shall not be a Creditor Accession Undertaking as defined in, and for the purposes of, the Intercreditor Agreement.

“**Authorisation**” means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation, legalisation or registration.

“**Bail-In Action**” means the exercise of any Write-down and Conversion Powers.

“**Bail-In Legislation**” means:

- (a) in relation to an EEA Member Country which has implemented, or which at any time implements, Article 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms, the relevant implementing law or regulation as described in the EU Bail-In Legislation Schedule from time to time; and
- (b) in relation to any other state, any analogous law or regulation from time to time which requires contractual recognition of any Write-down and Conversion Powers contained in that law or regulation.

“**Balloon Instalment**” has the meaning given to it in Clause 6.1 (*Repayment of Loan*).

“**Borrower**” means Borrower A, Borrower B or Borrower C and, in the plural, means all of them.

“**Break Costs**” means the amount (if any) by which:

- (a) the interest which a Lender should have received for the period from the date of receipt of all or any part of its participation in the Loan or an Unpaid Sum to the last day of the current Interest Period in relation to the Loan, the relevant part of the Loan or that Unpaid Sum, had the principal amount or Unpaid Sum received been paid on the last day of that Interest Period;

exceeds

- (b) the amount which that Lender would be able to obtain by placing an amount equal to the principal amount or Unpaid Sum received by it on deposit with a leading bank in the Relevant Interbank Market for a period starting on the Business Day following receipt or recovery and ending on the last day of the current Interest Period.

**“Business Day”** means a day (other than a Saturday or Sunday) on which banks are open for general business in London, New York, Athens, Frankfurt-Main, Rotterdam, Paris, Hamburg and Luxembourg.

**“Cash Flow”** has the meaning given to it in Clause 6.2 (*Cash Sweep Repayment*),

**“Cash Flow to Equity”** means any freely available cash that appears in the cash flow statements in relation to the Borrowers.

**“Charter”** means, in relation to a Ship, any charter relating to that Ship, or other contract for its employment, whether or not already in existence.

**“Charter Guarantee”** means any guarantee, bond, letter of credit or other instrument (whether or not already issued) supporting a Charter.

**“Charterparty Assignment”** means, in respect of each Initial Charter and any other Assignable Charter, an assignment of the relevant Borrower’s rights, title and interests under that Initial Charter and/or Assignable Charter (and any Charter Guarantee thereto) in favour of the Security Agent in agreed form.

**“Code”** means the US Internal Revenue Code of 1986.

**“Commercial Management Agreement”** means, in relation to a Ship, the agreement entered or to be entered into between Guarantor A or, as the case may be, Guarantor B and the Approved Commercial Manager regarding the commercial management of that Ship.

**“Commitment”** means:

- (a) in relation to an Original Lender, the amount set opposite its name under the heading “Commitment” in Part B of Schedule 1 (*The Parties*) and the amount of any other Commitment transferred to it under this Agreement; and
- (b) in relation to any other Lender, the amount of any Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

**“Compliance Certificate”** means a certificate in the form set out in Schedule 6 (*Form of Compliance Certificate*) or in any other form agreed between Guarantor A and the Facility Agent (acting on the instructions of the Majority Lenders).

**“Confidential Information”** means all information relating to any Transaction Obligor, the Group, the Finance Documents or the Facility of which a Finance Party becomes aware in its capacity as, or for the purpose of becoming, a Finance Party or which is received by a Finance Party in relation to, or for the purpose of becoming a Finance Party under, the Finance Documents or the Facility directly or indirectly from either:

- (a) any member of the Group or any of its advisers; or
- (b) another Finance Party, if the information was obtained by that Finance Party directly or indirectly from any member of the Group or any of its advisers,

in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes:

- (i) information that:
  - (A) is or becomes public information other than as a direct or indirect result of any breach by that Finance Party of Clause 45 (*Confidential Information*); or
  - (B) is identified in writing at the time of delivery as non-confidential by any member of the Group or any of its advisers; or
  - (C) is known by that Finance Party before the date the information is disclosed to it in accordance with paragraphs (a) or (b) above or is lawfully obtained by that Finance Party after that date, from a source which is, as far as that Finance Party is aware, unconnected with the Group and which, in either case, as far as that Finance Party is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality; and
- (ii) any Funding Rate or Reference Bank Quotation.

**“Confidentiality Undertaking”** means a confidentiality undertaking in substantially the appropriate form recommended by the LMA from time to time or in any other form agreed between the Borrowers and the Facility Agent (acting on the instructions of the Majority Lenders).

**“Debt Purchase Transaction”** means, in relation to a person, a transaction where such person:

- (a) purchases by way of assignment or transfer;
- (b) enters into any sub-participation in respect of; or
- (c) enters into any other agreement or arrangement having an economic effect substantially similar to a sub-participation in respect of,

any Commitment or amount outstanding under this Agreement.

**“Default”** means an Event of Default or a Potential Event of Default.

**“Delegate”** means any delegate, agent, attorney or co-trustee appointed by the Security Agent.

**“Debt Service”** means, at any given time, the aggregate payment obligations of the Borrowers pursuant to clause 6.1 (*Repayment of Loan*) of the Senior Facility Agreement together with interest and any payment obligations of the Borrowers pursuant to Clause 6.1 (*Repayment of Loan*) of this Agreement, together with interest.

**“Disruption Event”** means either or both of:

- (a) a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with the Facility (or otherwise in order for the transactions contemplated by the Finance Documents to be carried out) which disruption is not caused by, and is beyond the control of, any of the Parties or, if applicable, any Transaction Obligor; or
- (b) the occurrence of any other event which results in a disruption (of a technical or systems-related nature) to the treasury or payments operations of a Party or, if applicable, any Transaction Obligor preventing that, or any other, Party or, if applicable, any Transaction Obligor:
  - (i) from performing its payment obligations under the Finance Documents; or
  - (ii) from communicating with other Parties or, if applicable, any Transaction Obligor in accordance with the terms of the Finance Documents,

and which (in either such case) is not caused by, and is beyond the control of, the Party or, if applicable, any Transaction Obligor whose operations are disrupted.

**“Dry-Docking Reserve Account”** means, in relation to a Borrower:

- (a) an account in the name of that Borrower with the Account Bank designated “Dry-Docking Reserve Account”;
- (b) any other account in the name of that Borrower with the Account Bank which may, with the prior written consent of the Facility Agent, be opened in the place of the account referred to in paragraph (a) above, irrespective of the number or designation of such replacement account; or
- (c) any sub-account of any account referred to in paragraphs (a) or (b) above.

**“Dry-Docking Reserve Accrual”** has the meaning given to it in 23.27 (*Dry-Docking Reserves*).

**“Document of Compliance”** has the meaning given to it in the ISM Code.

**“dollars”** and **“\$”** mean the lawful currency, for the time being, of the United States of America.

**“DSCR”** has the meaning given to in Clause 6.2 (*Cash Sweep Repayment*).

**“Earnings”** means, in relation to a Ship, all moneys whatsoever which are now, or later become, payable (actually or contingently) to the Borrower owing that Ship or the Security Agent and which arise out of or in connection with or relate to the use or operation of that Ship, including (but not limited to):

- (a) the following, save to the extent that any of them is, with the prior written consent of the Facility Agent (acting on the instructions of the Majority Lenders), pooled or shared with any other person:
  - (i) all freight, hire and passage moneys including, without limitation, all moneys payable under, arising out of or in connection with a Charter or a Charter Guarantee;



- (ii) the proceeds of the exercise of any lien on sub-freights;
  - (iii) compensation payable to a Borrower or the Security Agent in the event of requisition of that Ship for hire or use;
  - (iv) remuneration for salvage and towage services;
  - (v) demurrage and detention moneys;
  - (vi) without prejudice to the generality of sub-paragraph (i) above, damages for breach (or payments for variation or termination) of any charterparty or other contract for the employment of that Ship;
  - (vii) all moneys which are at any time payable under any Insurances in relation to loss of hire;
  - (viii) all monies which are at any time payable to the Borrower owing that Ship in relation to general average contribution; and
- (b) if and whenever that Ship is employed on terms whereby any moneys falling within sub-paragraphs (i) to (viii) of paragraph (a) above are pooled or shared with any other person, that proportion of the net receipts of the relevant pooling or sharing arrangement which is attributable to that Ship.

**“Earnings Account”** means, in relation to a Borrower:

- (a) an account in the name of that Borrower with the Account Bank designated *“Earnings Account”*;
- (b) any other account in the name of that Borrower with the Account Bank which may, with the prior written consent of the Facility Agent, be opened in the place of the account referred to in paragraph (a) above, irrespective of the number or designation of such replacement account; or
- (c) any sub-account of any account referred to in paragraphs (a) or (b) above.

**“EEA Member Country”** means any member state of the European Union, Iceland, Liechtenstein and Norway.

**“Effective Date”** means the “Effective Date” as such term is defined in the Amendment and Restatement Deed.

**“Environmental Approval”** means any present or future permit, ruling, variance or other Authorisation required under Environmental Laws.

**“Environmental Claim”** means any claim by any governmental, judicial or regulatory authority or any other person which arises out of an Environmental Incident or which relates to any Environmental Law and, for this purpose, **“claim”** includes a claim for damages, compensation, contribution, injury, fines, losses and penalties or any other payment of any kind, including in relation to clean-up and removal, whether or not similar to the foregoing; an order or direction to take, or not to take, certain action or to desist from or suspend certain action; and any form of enforcement or regulatory action, including the arrest or attachment of any asset.

**“Environmental Incident”** means:

- (a) any release, emission, spill or discharge of Environmentally Sensitive Material whether within a Ship or from a Ship into any other vessel or into or upon the air, water, land or soils (including the seabed) or surface water; or
- (b) any incident in which Environmentally Sensitive Material is released, emitted, spilled or discharged into or upon the air, water, land or soils (including the seabed) or surface water from a vessel other than any Ship and which involves a collision between any Ship and such other vessel or some other incident of navigation or operation, in either case, in connection with which a Ship is actually or potentially liable to be arrested, attached, detained or enjoined and/or a Ship and/or any Transaction Obligor and/or any operator or manager of a Ship is at fault or allegedly at fault or otherwise liable to any legal or administrative action; or
- (c) any other incident in which Environmentally Sensitive Material is released, emitted, spilled or discharged into or upon the air, water, land or soils (including the seabed) or surface water otherwise than from a Ship and in connection with which a Ship is actually or potentially liable to be arrested and/or where any Transaction Obligor and/or any operator or manager of a Ship is at fault or allegedly at fault or otherwise liable to any legal or administrative action.

**“Environmental Law”** means any present or future law relating to pollution or protection of human health or the environment, to conditions in the workplace, to the carriage, generation, handling, storage, use, release or spillage of Environmentally Sensitive Material or to actual or threatened releases of Environmentally Sensitive Material.

**“Environmentally Sensitive Material”** means and includes all contaminants, oil, oil products, toxic substances and any other substance (including any chemical, gas or other hazardous or noxious substance) which is (or is capable of being or becoming) polluting, toxic or hazardous.

**“ERISA”** means the Employee Retirement Income Security Act of 1974, as amended, and any successor thereto.

**“ERISA Affiliate”** means each person (and defined in Section 3(9) of ERISA) which together with a Borrower would be deemed to be a “single employer” within the meaning of Section 414(b), (c), (m) or (o) of the Code.

**“EU Bail-In Legislation Schedule”** means the document described as such and published by the LMA from time to time.

**“Event of Default”** means any event or circumstance specified as such in Clause 28 (*Events of Default*).

**“Existing Indebtedness”** means at any date, the outstanding Financial Indebtedness of the Borrowers on that date under the Senior Facility Agreement, as such facility agreement exists prior to the Effective Date.

**“Facility”** means the term loan facility made available under this Agreement as described in Clause 2 (*The Facility*).

**“Facility Office”** means, in respect of a Lender, the office or offices notified by that Lender to the Facility Agent in writing on or before the date it becomes a Lender (or, following that date, by not less than 5 Business Days’ written notice) as the office or offices through which it will perform its obligations under this Agreement.

**“FATCA”** means:

- (a) sections 1471 to 1474 of the Code or any associated regulations;
- (b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; or
- (c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraphs (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction.

**“FATCA Application Date”** means:

- (a) in relation to a “withholdable payment” described in section 1473(1)(A)(i) of the Code (which relates to payments of interest and certain other payments from sources within the US), 1 July 2014;
- (b) in relation to a “withholdable payment” described in section 1473(1)(A)(ii) of the Code (which relates to “gross proceeds” from the disposition of property of a type that can produce interest from sources within the US), 1 January 2019; or
- (c) in relation to a “passthru payment” described in section 1471(d)(7) of the Code not falling within paragraphs (a) or (b) above, 1 January 2019,

or, in each case, such other date from which such payment may become subject to a deduction or withholding required by FATCA as a result of any change in FATCA after the date of this Agreement.

**“FATCA Deduction”** means a deduction or withholding from a payment under a Finance Document required by FATCA.

**“FATCA Exempt Party”** means a Party that is entitled to receive payments free from any FATCA Deduction.

**“Fee Letter”** means any letter or letters dated on or about the date of this Agreement between any of the Facility Agent and the Security Agent and any Obligor setting out any of the fees referred to in Clause 11 (*Fees*) or any other fee letter entered or to be into in connection with the Finance Documents.

**“Finance Document”** means:

- (a) this Agreement;
- (b) any Additional Guarantee;

- (c) any Fee Letter;
- (d) the Utilisation Request;
- (e) any Security Document;
- (f) any Hedging Agreement;
- (g) any Subordination Agreement;
- (h) any other document which is executed for the purpose of establishing any priority or subordination arrangement in relation to the Secured Liabilities;
- (i) the Intercreditor Agreement;
- (j) any other document designated as such by the Facility Agent (acting on the instructions of the Majority Lenders) and the Borrowers.

**"Finance Party"** means the Facility Agent, the Security Agent, a Lender or a Hedge Counterparty.

**"Financial Indebtedness"** means any indebtedness for or in relation to:

- (a) moneys borrowed;
- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in relation to any lease or hire purchase contract which would, in accordance with GAAP, be treated as a balance sheet liability;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any amount raised under any other transaction (including any forward sale or purchase agreement) of a type not referred to in any other paragraph of this definition having the commercial effect of a borrowing;
- (g) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that derivative transaction, that amount) shall be taken into account);
- (h) any counter-indemnity obligation in relation to a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and

(i) the amount of any liability in relation to any guarantee or indemnity for any of the items referred to in paragraphs (a) to (h) above.

“**Financial Statements**” has the meaning given to it in Clause 22.4 (*Definitions*).

“**Fleet Vessel**” has the meaning given to it in Clause 22.4 (*Definitions*).

“**Funding Rate**” means any individual rate notified in writing by a Lender to the Facility Agent pursuant to sub-paragraph (ii) of paragraph (a) of Clause 10.4 (*Cost of funds*).

“**GAAP**” means generally accepted accounting principles in the United States of America, including IFRS.

“**General Assignment**” means, in relation to a Ship, the general assignment creating Security over:

- (a) that Ship’s Earnings, its Insurances and any Requisition Compensation in relation to that Ship; and
- (b) any Charter (other than an Assignable Charter) and any Charter Guarantee in relation to that Ship,

in agreed form.

“**Group**” means Guarantor A and its Subsidiaries at any given time (including, without limitation, Guarantor B and the Borrowers).

“**Hedge Counterparty**” means any Original Hedge Counterparty or any Additional Hedge Counterparty, which in each case, is or has become a party to the Intercreditor Agreement as a Hedge Counterparty in accordance with the provisions of the Intercreditor Agreement.

“**Hedge Counterparty Guarantee**” means any guarantee in agreed form entered into or to be entered into in favour of a Borrower for the purpose of guaranteeing the obligations owed by a Hedge Counterparty to that Borrower under a Hedging Agreement.

“**Hedge Counterparty Guarantor**” means any person who provides a Hedge Counterparty Guarantee.

“**Hedge Receipts**” means all moneys whatsoever which are now, or later become, payable (actually or contingently) to a Borrower or the Security Agent by a Hedge Counterparty or a Hedge Counterparty Guarantor under a Hedging Agreement or a Hedge Counterparty Guarantee.

“**Hedging Agreement**” means any master agreement, confirmation, transaction, schedule or other agreement in agreed form entered into or to be entered into by a Borrower for the purpose of hedging interest payable under this Agreement and/or the Senior Facility Agreement and/or any other Finance Document.

“**Hedging Agreement Security**” means, in relation to a Borrower, a hedging agreement security creating Security over that Borrower’s rights and interests in any Hedging Agreement and any Hedge Counterparty Guarantee, in agreed form.

**"Hedging Prepayment Proceeds"** means any Hedge Receipts arising as a result of termination or closing out under a Hedging Agreement.

**"Holding Company"** means, in relation to a person, any other person in relation to which it is a Subsidiary.

**"IFRS"** means International Financial Reporting Standards promulgated by the International Accounting Standards Board, as amended from time to time, together with its pronouncements thereon from time to time.

**"IHM"** means, in respect of a Ship, an inventory of hazardous materials ("**IHM**") classification in respect of that Ship from the applicable Approved Classification Society.

**"Indemnified Person"** means:

- (a) for the purpose of Clause 14.2 (*Other Indemnities*) each Finance Party, each Affiliate of a Finance Party and each officer or employee of a Finance Party or its Affiliate; and
- (b) for the purpose of Clause 14.4 (*Indemnity to the Facility Agent*), the Facility Agent, each Affiliate of the Facility Agent and each director, officer, employee, agent, trustee, representative, attorney, accountant and each insurance, environmental, legal, financial and other advisor of the Facility Agent or its Affiliate.

**"Initial Charter"** means in relation to:

- (a) Ship A, the time charter dated 15 December 2014 (as amended and supplemented from time to time) and currently between Borrower A and Hapag Lloyd A.G., Hamburg in relation to the employment of Ship A for a charter rate of \$40,000 per day until at least 15 March 2019;
- (b) Ship B, the time charter dated 27 February 2015 (as amended and supplemented from time to time) and made between Borrower B and Cosco Container Lines South East Asia (Singapore) Pte Ltd in relation to the employment of Ship B for a charter rate of \$39,200 per day until at least 24 April 2020; and
- (c) Ship C, the time charter dated 27 February 2015 (as amended and supplemented from time to time) and made between Borrower C and Cosco Container Lines South East Asia (Singapore) Pte Ltd in relation to the employment of Ship C for a charter rate of \$39,200 per day until at least 9 May 2020.

**"Insurances"** means, in relation to a Ship:

- (a) all policies and contracts of insurance, including entries of that Ship in any protection and indemnity or war risks association, effected in relation to that Ship, that Ship's Earnings or otherwise in relation to that Ship whether before, on or after the date of this Agreement; and
- (b) all rights and other assets relating to, or derived from, any of such policies, contracts or entries, including any rights to a return of premium and any rights in relation to any claim whether or not the relevant policy, contract of insurance or entry has expired on or before the date of this Agreement.

**“Intercreditor Agreement”** means the intercreditor agreement dated on or around the Effective Date between, amongst others, the Borrowers, the Senior Creditors and the Junior Creditors.

**“Interest Payment Date”** has the meaning given to it in paragraph (a) of Clause 8.2 (*Payment of interest*).

**“Interest Period”** means, in relation to the Loan or any part of the Loan, each period determined in accordance with Clause 9 (*Interest Periods*) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 8.3 (*Default interest*).

**“Interpolated Screen Rate”** means, in relation to the Loan or any part of the Loan, the rate (rounded to the same number of decimal places as the two relevant Screen Rates) which results from interpolating on a linear basis between:

- (a) the applicable Screen Rate for the longest period (for which that Screen Rate is available) which is less than the Interest Period of the Loan or that part of the Loan; and
- (b) the applicable Screen Rate for the shortest period (for which that Screen Rate is available) which exceeds the Interest Period of the Loan or that part of the Loan,

each as of the Specified Time for dollars.

**“ISDA Master Agreement”** means the 2002 Master Agreement as published by the International Swaps and Derivatives Association, Inc.

**“ISM Code”** means the International Safety Management Code for the Safe Operation of Ships and for Pollution Prevention (including the guidelines on its implementation), adopted by the International Maritime Organisation, as the same may be amended or supplemented from time to time.

**“ISPS Code”** means the International Ship and Port Facility Security (ISPS) Code as adopted by the International Maritime Organization’s (IMO) Diplomatic Conference of December 2002, as the same may be amended or supplemented from time to time.

**“ISSC”** means an International Ship Security Certificate issued under the ISPS Code.

**“Junior Creditors”** has the meaning given to such term in the Intercreditor Agreement.

**“Junior Facility Utilisation Notice”** has the meaning given to such term in the Amendment and Restatement Deed.

**“Legal Reservations”** means any matters which are set out as qualifications or reservations as to matters of law of general application in any legal opinion delivered pursuant to Clause 3 of Schedule 2.

**“Lender”** means:

- (a) any Original Lender; and

- (b) any bank, financial institution, trust, fund or other entity which has become a Party as a Lender in accordance with Clause 29 (*Changes to the Lenders*),

which in each case has not ceased to be a Party as such in accordance with this Agreement.

“**LLC Shares**”, means in respect of a Borrower, shall have the meaning ascribed thereto in that Borrower's limited liability company agreement.

“**LIBOR**” means, in relation to the Loan or any part of the Loan:

- (a) the applicable Screen Rate as of the Specified Time for dollars and for a period equal in length to the Interest Period of the Loan or that part of the Loan; or
- (b) as otherwise determined pursuant to Clause 10.1 (*Unavailability of Screen Rate*),

and if, in either case, that rate is less than zero, LIBOR shall be deemed to be zero.

“**Liquidity Account**” means, in relation to a Borrower:

- (a) an account in the name of that Borrower with the Account Bank designated “*Liquidity Account*”;
- (b) any other account in the name of that Borrower with the Account Bank which may, with the prior written consent of the Facility Agent, be opened in the place of the account referred to in paragraph (a) above, irrespective of the number or designation of such replacement account; or
- (c) any sub-account of any account referred to in paragraphs (a) or (b) above.

“**LMA**” means the Loan Market Association or any successor organisation.

“**Loan**” means the amount to be made available under the Facility or the aggregate principal amount outstanding for the time being of the borrowings under the Facility and a “**part of the Loan**” means a Tranche, a part of a Tranche or any other part of the Loan as the context may require.

“**Major Casualty**” means, in relation to a Ship, any casualty to that Ship in relation to which the claim or the aggregate of the claims against all insurers, before adjustment for any relevant franchise or deductible, exceeds 5 per cent. of the Market Value of that Ship (or the equivalent in any other currency).

“**Majority Lenders**” means:

- (a) if the Loan has not yet been made, a Lender or Lenders whose Commitments aggregate 66 2/3 per cent. or more of the Total Commitments; or
- (b) at any other time, a Lender or Lenders whose participations in the Loan aggregate 66 2/3 per cent. or more of the amount of the Loan then outstanding or, if the Loan has been repaid or prepaid in full, a Lender or Lenders whose participations in the Loan immediately before repayment or prepayment in full aggregate 66 2/3 per cent. or more of the Loan immediately before such repayment.



**“Management Agreement”** means a Technical Management Agreement or a Commercial Management Agreement.

**“Manager’s Undertaking”** means, in relation to a Ship, the letter of undertaking from its Approved Technical Manager and the letter of undertaking from its Approved Commercial Manager subordinating the rights of such Approved Technical Manager and such Approved Commercial Manager respectively against that Ship and the relevant Borrower to the rights of the Finance Parties and the Senior Finance Parties in agreed form.

**“Mandatory Cost”** has the meaning given to it in Clause 14.3 (*Mandatory Cost*).

**“Margin”** means ten per cent. (10%) per annum.

**“Market Value”** means:

- (a) in relation to a Ship or any other vessel (and subject to paragraph (b) below, including a Fleet Vessel), at any date, an amount equal to:
  - (i) the market value of that Ship or vessel shown by the arithmetic average of two valuations, addressed to the Facility Agent and prepared:
    - (A) as at a date not more than 20 days previously;
    - (B) by two Approved Valuers, one selected and appointed by the Facility Agent (acting on the instructions of the Majority Lenders) and one selected and appointed by the Borrowers **Provided that** if (1) the Borrowers fail to select an Approved Valuer within 10 days’ notice of the Facility Agent, the Facility Agent will select and appoint the second one and (2) any of such valuations sets the market value as ranging between a lower and a higher figure, the value to be used for such valuation will be the average of the higher and the lower figures;
    - (C) with or without physical inspection of that Ship or vessel (as the Facility Agent may require (acting on the instructions of the Majority Lenders)); and
    - (D) on the basis of a sale for prompt delivery for cash on normal arm’s length commercial terms as between a willing seller and a willing buyer, free of any Charter.

**provided that** if (1) one such valuation in respect of a Ship obtained pursuant to sub-paragraph (ii) above differs by at least 10 per cent. from the lower valuation, then a third valuation for that Ship shall be obtained from an Approved Valuer, selected and appointed by the Facility Agent (acting on the instructions of the Majority Lenders) and such valuation shall be addressed to the Facility Agent and the Market Value of that Ship shall be the arithmetic average of all three such valuations and (2) any of such valuations sets the market value as ranging between a lower and a higher figure, the value to be used for such valuation will be the average of the higher and the lower figures.

- (b) in relation to any other Fleet Vessel (excluding, for the avoidance of doubt the Ships and any other vessel whose market value is determined under paragraph (a) above), the market value of that Fleet Vessel as determined by the valuation(s) provided under the relevant facility agreement financing that Fleet Vessel only if the market value under that credit facility agreement is determined (amongst others) free of any charter. In all other cases and if a Fleet Vessel is not subject to a facility agreement, the market value of that Fleet Vessel as determined under paragraph (a).

**“Material Adverse Effect”** means, in the opinion of the Lenders, a material adverse effect on:

- (a) the business, operations, property, condition (financial or otherwise) of any Obligor or the Group as a whole; or
- (b) the ability of any Obligor to perform its obligations under any Finance Document; or
- (c) the validity or enforceability of, or the effectiveness or ranking of any Security granted or intended to be granted pursuant to any of, the Finance Documents or the rights or remedies of any Finance Party under any of the Finance Documents; or
- (d) the business, operations, property, condition (financial or otherwise) or prospects of the New Parent.

**“Merger”** means the reverse triangular merger which occurred on 15 November 2018 involving Guarantor A and the New Parent, as a result of which (a) Guarantor A is the surviving entity and an indirect, wholly-owned Subsidiary of the New Parent and (b) the Poseidon Shareholders have received shares of the New Parent.

**“Minimum Liquidity Amount”** has the meaning given to it in Clause 22.1 (*Borrowers’ Minimum Liquidity Amount*).

**“Minimum Required Hedged Amount”** means at any time during which 3 month LIBOR is:

- (a) less than 3.25%, zero;
- (b) greater than 3.25% but less than 3.50%, an amount equal to 50 per cent. of the principal amounts of the Loan outstanding (or projected to be outstanding) under this Agreement; or
- (c) greater than 3.50%, an amount equal to 100 per cent. of the principal amounts of the Loan outstanding (or projected to be outstanding) under this Agreement.

**“Month”** means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:

- (a) (subject to paragraph (c) below) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day;
- (b) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month; and

- (c) if an Interest Period begins on the last Business Day of a calendar month, that Interest Period shall end on the last Business Day in the calendar month in which that Interest Period is to end.

The above rules will only apply to the last Month of any period.

**"Mortgage"** means, in relation to a Ship, a first preferred or, as the case may be, priority ship mortgage (as amended or supplemented from time to time) on that Ship in agreed form and, if required pursuant to the laws of the relevant Approved Flag, a deed of covenant collateral thereto in agreed form.

**"New Parent"** means Global Ship Lease Inc., a corporation incorporated in the Republic of the Marshall Islands and having its registered office at Trust Company Complex, Ajeltake Road, Ajeltake Island, PO Box 1405, Majuro, Marshall Islands MH 96960.

**"New Parent's Cash"** means, at any relevant time cash held with banks or financial institutions of the New Parent or any of its Subsidiaries in Dollars or another currency freely convertible in Dollars, which is free of any Security (other than (i) Security created by the Finance Documents; (ii) Security created in respect of any Permitted Financial Indebtedness; and (iii) any right of pledge and/or set off under and pursuant to the general banking conditions of the Account Bank), determined in accordance with GAAP.

**"Obligor"** means a Borrower, a Guarantor or a Hedge Guarantor.

**"Odysia NB"** means Odysia NB LLC, a limited liability company formed in the Marshall Islands whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Island, MH96960, Majuro, Marshall Islands.

**"OFAC"** means the Office of Foreign Assets Control of the US Department of Treasury.

**"Original Financial Statements"** means in relation to:

- (a) Guarantor A and Guarantor B, its audited financial statements for the financial year ended 31 December 2017 and, depending on whether they are actually available, the latest interim figures for the period ending on June 2018 or September 2018 (as applicable); and
- (b) a Borrower its unaudited financial statements for the financial year ended 31 December 2017 and, depending on whether they are actually available, the latest interim figures for the period ending on June 2018 or September 2018 (as applicable).

**"Original Jurisdiction"** means, in relation to an Obligor, the jurisdiction under whose laws that Obligor is incorporated or formed as at the date of the Senior Facility Agreement.

**"Overseas Regulations"** means the Overseas Companies Regulations 2009 (SI 2009/1801).

**"Participating Member State"** means any member state of the European Union that has the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

**"Party"** means a party to this Agreement.

**“Perfection Requirements”** means the making or procuring of filings, stampings, registrations, notarisations, endorsements, translations and/or notifications of any Finance Document (and/or any Security created under it) necessary for the validity, enforceability (as against the relevant Obligor or any relevant third party) and/or perfection of that Finance Document.

**“Permitted Charter”** means, in relation to a Ship:

- (a) the Initial Charter in respect of that Ship;
- (b) which is a time, voyage or consecutive voyage charter;
- (c) the duration of which does not exceed and is not capable of exceeding, by virtue of any optional extensions, 12 months;
- (d) which is entered into on *bona fide* arm’s length terms at the time at which that Ship is fixed; and
- (e) in relation to which not more than two months’ hire is payable in advance,

and any other Charter which is approved in writing by the Facility Agent acting with the authorisation of the Majority Lenders.

**“Permitted Financial Indebtedness”** means:

- (a) until (and including) the Utilisation Date, the Existing Indebtedness;
- (b) any Financial Indebtedness incurred under the Finance Documents, subject always to the terms of the Senior Facility Agreement and the Intercreditor Agreement;
- (c) any Financial Indebtedness incurred under the Senior Finance Documents; and
- (d) any Financial Indebtedness that is subordinated to all Financial Indebtedness incurred under the Finance Documents and the Senior Finance Documents pursuant to a Subordination Agreement or otherwise and which is, in the case of any such Financial Indebtedness of a Borrower, the subject of Subordinated Debt Security.

**“Permitted Security”** means:

- (a) Security created by the Finance Documents;
- (b) liens for unpaid master’s and crew’s wages in accordance with first class ship ownership and management practice and not being enforced through arrest;
- (c) liens for salvage;
- (d) liens for master’s disbursements incurred in the ordinary course of trading in accordance with first class ship ownership and management practice and not being enforced through arrest; and
- (e) any other lien arising by operation of law or otherwise in the ordinary course of the operation, repair or maintenance of any Ship in accordance with usual reputable maritime practice:

- (i) not as a result of any default or omission by any Borrower;
- (ii) not being enforced through arrest; and
- (iii) subject, in the case of liens for repair or maintenance, to Clause 25.16 (*Restrictions on use, chartering, appointment of managers etc.*),

and provided such lien does not secure amounts more than 30 days overdue (unless the overdue amount is being contested in good faith by appropriate steps and for the payment of which adequate reserves are held and provided further that such proceedings do not give rise to a material risk of the relevant Ship or any interest in it being seized, sold, forfeited or lost).

**“Plan”** means any “employee benefit plan” as defined in Section 3(3) of ERISA that is subject to Title IV of ERISA which is or was sponsored, maintained or contributed to by, or required to be contributed to by any Obligor or any of their respective ERISA Affiliates.

**“Poseidon Shareholder”** means each of:

- (a) KEP VI (Newco Marine), Ltd, a company incorporated in the Cayman Islands;
- (b) KIA VIII (Newco Marine), Ltd, a company incorporated in the Cayman Islands;
- (c) MAAS Capital Investments B.V., a company incorporated in the Netherlands; and
- (d) Management Investor Co, a corporation incorporated in the Marshall Islands.

**“Potential Event of Default”** means any event or circumstance specified in Clause 28 (*Events of Default*) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

**“Prohibited Person”** means any person (whether designated by name or by reason of being included in a class of persons) against whom Sanctions are directed.

**“Protected Party”** has the meaning given to it in Clause 12.1 (*Definitions*).

**“Quotation Day”** means, in relation to any period for which an interest rate is to be determined, two Business Days before the first day of that period unless market practice differs in the Relevant Interbank Market in which case the Quotation Day will be determined by the Facility Agent (acting on the instructions of the Majority Lenders which will act in accordance with market practice in the Relevant Interbank Market) (and if quotations would normally be given by leading banks in the Relevant Interbank Market on more than one day, the Quotation Day will be the last of those days).

**“Receiver”** means a receiver or receiver and manager or administrative receiver of the whole or any part of the Security Assets.

**“Reference Bank Quotation”** means any quotation supplied to the Facility Agent (acting on the instructions of the Majority Lenders) by a Reference Bank.

**“Reference Bank Rate”** means the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Facility Agent (acting on the instructions of the Majority Lenders) at its request by the Reference Banks:

- (a) if:
  - (i) the Reference Bank is a contributor to the Screen Rate; and
  - (ii) it consists of a single figure,  
as the rate (applied to the relevant Reference Bank and the relevant currency and period) which contributors to the Screen Rate are asked to submit to the relevant administrator; or
- (b) in any other case, as the rate at which the relevant Reference Bank could fund itself in dollars for the relevant period with reference to the unsecured wholesale funding market.

**“Reference Banks”** means the principal London offices of Barclays Bank, Lloyds Bank, HSBC Bank plc or of such entities as may be appointed by the Facility Agent in consultation with the Borrowers.

**“Related Fund”** in relation to a fund (the “first fund”), means a fund which is managed or advised by the same investment manager or investment adviser as the first fund or, if it is managed by a different investment manager or investment adviser, a fund whose investment manager or investment adviser is an Affiliate of the investment manager or investment adviser of the first fund.

**“Relevant Interbank Market”** means the London interbank market.

**“Relevant Jurisdiction”** means, in relation to a Transaction Obligor:

- (a) its Original Jurisdiction;
- (b) any jurisdiction where any asset subject to, or intended to be subject to, any of the Transaction Security created, or intended to be created, by it is situated;
- (c) any jurisdiction where it conducts its business; and
- (d) the jurisdiction whose laws govern the perfection of any of the Security Documents entered into by it.

**“Relevant Nominating Body”** means any applicable central bank, regulator or other supervisory authority or a group of them, or any working group or committee sponsored or chaired by, or constituted at the request of, any of them or the Financial Stability Board.

**“Relevant Retrenching”** means the retrenching of certain debt of the Borrowers into the Senior Facility and the Junior Facility (as each such term is defined in the Intercreditor Agreement) pursuant to the provisions of the Amendment and Restatement Deed.

**“Relevant Retrenching Document”** means, in respect of the Relevant Retrenching:

- (a) any loan agreement (including this Agreement) (whether senior or junior in priority) entered into by, *inter alios*, the Borrowers with Retranching Lenders;
- (b) any intercreditor agreement (including the Intercreditor Agreement) establishing priorities between this Agreement and the Senior Facility Agreement;
- (c) any Security Documents entered into in connection with the Relevant Retranching; and
- (d) any other document which may be entered into in connection with the Relevant Retranching.

**"Replacement Benchmark"** means a benchmark rate which is:

- (a) formally designated, nominated or recommended as the replacement for a Screen Rate by:
  - (i) the administrator of that Screen Rate (provided that the market or economic reality that such benchmark rate measures is the same as that measured by that Screen Rate); or
  - (ii) any Relevant Nominating Body,

and if replacements have, at the relevant time, been formally designated, nominated or recommended under both paragraphs, the "Replacement Benchmark" will be the replacement under paragraph (ii) above;

- (b) in the opinion of the Lenders, generally accepted in the international or any relevant domestic syndicated loan markets as the appropriate successor to a Screen Rate; or
- (c) in the opinion of the Lenders, an appropriate successor to a Screen Rate.

**"Repayment Date"** means each date on which a Repayment Instalment is required to be paid under Clause 6.1 (*Repayment of Loan*).

**"Repayment Instalment"** has the meaning given to it in Clause 6.1 (*Repayment of Loan*).

**"Repeating Representation"** means each of the representations set out in Clause 20 (*Representations*) except Clause 20.10 (*Insolvency*), Clause 20.11 (*No filing or stamp taxes*) and Clause 20.12 (*Deduction of Tax*) and any representation of any Transaction Obligor made in any other Finance Document that is expressed to be a "Repeating Representation" or is otherwise expressed to be repeated.

**"Representative"** means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian.

**"Requisition"** means in relation to a Ship:

- (a) any expropriation, confiscation, requisition (excluding a requisition for hire or use which does not involve a requisition for title) or acquisition of that Ship, whether for full consideration, a consideration less than its proper value, a nominal consideration or without any consideration, which is effected (whether *de jure* or *de facto*) by any

government or official authority or by any person or persons claiming to be or to represent a government or official authority, unless it is within 30 days (or such other longer period as the Facility Agent may agree) redelivered to the full control of the relevant Borrower; and

- (b) any capture or seizure of that Ship (including any hijacking or theft) by any person whatsoever unless it is within 60 days (or such other longer period as the Facility Agent may agree) redelivered to the full control of the relevant Borrower.

**“Requisition Compensation”** includes all compensation or other moneys payable to a Borrower by reason of any Requisition or any arrest or detention of a Ship in the exercise or purported exercise of any lien or claim.

**“Resolution Authority”** means anybody which has authority to exercise any Write-down and Conversion Powers.

**“Retention Account”** means:

- (a) an account in the name of the Borrowers with the Account Bank designated *“Laertis Marine LLC, Penelope Marine LLC and Telemachus Marine LLC - Retention Account”*;
- (b) any other account in the name of the Borrowers with the Account Bank which may, with the prior written consent of the Facility Agent, be opened in the place of the account referred to in paragraph (a) above, irrespective of the number or designation of such replacement account; or

any sub-account of any account referred to in paragraphs (a) or (b) above.

**“Safety Management Certificate”** has the meaning given to it in the ISM Code.

**“Safety Management System”** has the meaning given to it in the ISM Code.

**“Sanctions”** means any sanctions, embargoes, freezing provisions, prohibitions or other restrictions relating to trading, doing business, investment, exporting, financing or making assets available (or other activities similar to or connected with any of the foregoing):

- (a) imposed by law or regulation of OFAC, the US Department of State, the US Department of Commerce, the United Nations Security Council, the European Union, or Her Majesty’s Treasury, regardless of whether the same is or is not binding on any Transaction Obligor; or
- (b) otherwise imposed by any law or regulation binding on a Transaction Obligor or to which a Transaction Obligor is subject (which shall include without limitation, any extra-territorial sanctions imposed by law or regulation of the United States of America).

**“Sanctioned Country”** means a country which is the subject or the target of Sanctions (currently, Cuba, Iran, North Korea, Sudan, the Crimea region and Syria).

**“Scheduled Dry-Docking”** means, in relation to a Ship, the dry-docking which will take place on the Scheduled Dry-Docking Date relevant to that Ship.



**“Scheduled Dry-Docking Dates”** means, in relation to:

- (a) Ship A, a day falling during June 2020;
- (b) Ship B, a day falling during September 2020; and
- (c) Ship C, a day falling during September 2020.

**“Screen Rate”** means the London interbank offered rate administered by ICE Benchmark Administration Limited (or any other person which takes over the administration of that rate) for dollars for the relevant period displayed (before any correction, recalculation or republication by the administrator) on page LIBOR01 or LIBOR02 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters. If such page or service ceases to be available, the Facility Agent may (acting on the instructions of the Majority Lenders) specify another page or service displaying the relevant rate after consultation with the Borrowers.

**“Screen Rate Replacement Event”** means, in relation to a Screen Rate:

- (a) the methodology, formula or other means of determining that Screen Rate has, in the opinion of the Majority Lenders materially changed;
- (b)
  - (i)
    - (A) the administrator of that Screen Rate or its supervisor publicly announces that such administrator is insolvent; or
    - (B) information is published in any order, decree, notice, petition or filing, however described, or filed with a court, tribunal, exchange, regulatory authority or similar administrative, regulatory or judicial body which reasonably confirms that the administrator of that Screen Rate is insolvent,provided that, in each case, at that time, there is no successor administrator to continue to provide that Screen Rate;
  - (ii) the administrator of that Screen Rate publicly announces that it has ceased or will cease, to provide that Screen Rate permanently or indefinitely and, at that time, there is no successor administrator to continue to provide that Screen Rate;
  - (iii) the supervisor of the administrator of that Screen Rate publicly announces that such Screen Rate has been or will be permanently or indefinitely discontinued; or
  - (iv) the administrator of that Screen Rate or its supervisor announces that that Screen Rate may no longer be used; or

- (c) in the opinion of the Majority Lenders, that Screen Rate is otherwise no longer appropriate for the purposes of calculating interest under this Agreement.

**“Secured Liabilities”** means all present and future obligations and liabilities, (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of each Transaction Obligor to any Secured Party under or in connection with each Finance Document and each Senior Finance Document (including, for the avoidance of doubt, any Relevant Retrenching Document (which shall include this Agreement and the other Finance Documents)).

**“Secured Party”** means each Finance Party from time to time party to this Agreement, a Receiver or any Delegate and each Senior Finance Party from time to time a party to the Senior Facility Agreement.

**“Security”** means a mortgage, pledge, lien, charge, assignment, hypothecation or security interest or any other agreement or arrangement having the effect of conferring security.

**“Security Assets”** means all of the assets of the Transaction Obligors which from time to time are, or are expressed to be, the subject of the Transaction Security.

**“Security Document”** means:

- (a) any Shares Security;
- (b) any Mortgage;
- (c) any General Assignment;
- (d) any Account Security;
- (e) any Manager’s Undertaking;
- (f) any Charterparty Assignment;
- (g) any Hedging Agreement Security;
- (h) any Subordinated Debt Security;
- (i) any other document (whether or not it creates Security) which is executed as security for the Secured Liabilities;
- (j) any Security, or a supplement or amendment to any Security, made for the purposes of a Relevant Retrenching; or
- (k) any other document designated as such by the Facility Agent (acting on the instructions of the Majority Lenders) and the Borrowers.

**“Security Period”** has the meaning given to such term in the Intercreditor Agreement.

**“Security Property”** means:

- (a) the Transaction Security expressed to be granted in favour of the Security Agent as trustee for the Secured Parties and all proceeds of that Transaction Security;
- (b) all obligations expressed to be undertaken by a Transaction Obligor to pay amounts in relation to the Secured Liabilities to the Security Agent as trustee for the Secured Parties and secured by the Transaction Security together with all representations and warranties expressed to be given by a Transaction Obligor or any other person in favour of the Security Agent as trustee for the Secured Parties;
- (c) the Security Agent's interest in any turnover trust created under the Finance Documents or the Senior Finance Documents;
- (d) any other amounts or property, whether rights, entitlements, choses in action or otherwise, actual or contingent, which the Security Agent is required by the terms of the Finance Documents or the Senior Finance Documents to hold as trustee on trust for the Secured Parties,

except:

- (i) rights intended for the sole benefit of the Security Agent; and
- (ii) any moneys or other assets which the Security Agent has transferred to the Facility Agent or the Senior Facility Agent or (being entitled to do so) has retained in accordance with the provisions of this Agreement or any other Finance Document or Senior Finance Document.

**"Selection Notice"** means a notice substantially in the form set out in Part B of Schedule 3 (*Requests*) given in accordance with Clause 9 (*Interest Periods*).

**"Senior Creditors"** has the meaning given to such term in the Intercreditor Agreement.

**"Senior Facility Agreement"** means the senior facility agreement dated 9 November 2018 and as amended and restated on or around the Effective Date (as further amended, supplemented and/or restated from time to time) and made between, amongst others, (i) the Borrowers as joint and several borrowers, (ii) the banks and financial institutions listed therein as Senior Lenders and (iii) Wilmington Trust (London) Limited as facility agent and security agent.

**"Senior Facility Agent"** Facility Agent under, and as defined in, the Senior Facility Agreement.

**"Senior Finance Documents"** has the meaning given to the term "Finance Documents" in the Senior Facility Agreement.

**"Senior Finance Parties"** means the Senior Creditors.

**"Senior Lenders"** has the meaning given to such term in the Intercreditor Agreement.

**"Senior Loan"** has the meaning given to the term "Loan" in the Senior Facility Agreement.

**"Servicing Party"** means the Facility Agent or the Security Agent.

**"Shares Security"** means, in relation to a Borrower, a document creating Security over the LLC Shares in that Borrower in agreed form.

“**Ship**” means Ship A, Ship B or Ship C.

“**Ship A**” means m.v. “UASC AL KHOR” and registered in the ownership of Borrower A, details of which are set out opposite its name in Schedule 7 (*Details of the Ships*).

“**Ship B**” means m.v. “ANTHEA Y” and registered in the ownership of Borrower B, details of which are set out opposite its name in Schedule 7 (*Details of the Ships*).

“**Ship C**” means m.v. “MAIRA XL” and registered in the ownership of Borrower C, details of which are set out opposite its name in Schedule 7 (*Details of the Ships*).

“**Specified Time**” means a day or time determined in accordance with Schedule 9 (*Timetables*).

“**Subordinated Creditor**” means:

- (a) a Transaction Obligor; or
- (b) any other person who becomes a Subordinated Creditor in accordance with this Agreement.

“**Subordinated Debt Security**” means a Security over Subordinated Liabilities entered into or to be entered into by a Subordinated Creditor in favour of the Security Agent in an agreed form.

“**Subordinated Finance Document**” means:

- (a) a Subordinated Loan Agreement; and
- (b) any other document relating to or evidencing Subordinated Liabilities.

“**Subordinated Liabilities**” means all indebtedness owed or expressed to be owed by the Borrowers to a Subordinated Creditor whether under the Subordinated Finance Documents or otherwise.

“**Subordinated Loan Agreement**” means any loan agreement made between (i) a Borrower and (ii) a Subordinated Creditor.

“**Subordination Agreement**” means a subordination agreement entered into or to be entered into by a Subordinated Creditor and the Security Agent in agreed form.

“**Subsidiary**” means a subsidiary within the meaning of section 1159 of the Companies Act 2006.

“**Substitute Initial Charter**” has the meaning given to it in Clause 22.1 (*Borrowers' minimum liquidity*).

“**Tax**” means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

“**Tax Credit**” has the meaning given to it in Clause 12.1 (*Definitions*).

“**Tax Deduction**” has the meaning given to it in Clause 12.1 (*Definitions*).

“**Tax Payment**” has the meaning given to it in Clause 12.1 (*Definitions*).

“**Technical Management Agreement**” means the agreement entered or to be entered into between a Borrower and the Approved Technical Manager regarding the technical management of a Ship.

“**Termination Date**” means 30 June 2022.

“**Third Parties Act**” has the meaning given to it in Clause 1.5 (*Third party rights*).

“**Total Commitments**” means the aggregate of the Commitments, being \$38,600,000 at the date of this Agreement.

“**Total Hedged Amount**” means, at any time, the aggregate principal amount of the Loan hedged by the Borrowers pursuant to all outstanding transactions under the Hedging Agreements at that time.

“**Total Loss**” means, in relation to a Ship:

- (a) actual, constructive, compromised, agreed or arranged total loss of that Ship; or
- (b) any Requisition of that Ship.

“**Total Loss Date**” means, in relation to the Total Loss of a Ship:

- (a) in the case of an actual loss of that Ship, the date on which it occurred or, if that is unknown, the date when that Ship was last heard of;
- (b) in the case of a constructive, compromised, agreed or arranged total loss of that Ship, the earlier of:
  - (i) the date on which a notice of abandonment is given (or deemed or agreed to be given) to the insurers; and
  - (ii) the date of any compromise, arrangement or agreement made by or on behalf of the relevant Borrower with that Ship's insurers in which the insurers agree to treat that Ship as a total loss; and
- (c) in the case of any other type of total loss, the date (or the most likely date) on which it appears to the Facility Agent (acting on the instructions of the Majority Lenders) that the event constituting the total loss occurred.

“**Tranche**” means Tranche A, Tranche B or Tranche C.

“**Tranche A**” means an amount of \$12,866,666.66 or, as the context may require, the aggregate principal amount outstanding thereof at that time.

“**Tranche B**” means an amount of \$12,866,666.67 or, as the context may require, the aggregate principal amount outstanding thereof at that time.

“**Tranche C**” means an amount of \$12,866,666.67 or, as the context may require, the aggregate principal amount outstanding thereof at that time.

“**Transaction Document**” means:

- (a) a Finance Document;
- (b) a Senior Finance Document;
- (c) a Subordinated Finance Document;
- (d) any Charter (including, without limitation, any Assignable Charter);
- (e) any Hedge Counterparty Guarantee; or
- (f) any other document designated as such by the Facility Agent (acting on the instructions of the Majority Lenders) and a Borrower.

“**Transaction Obligor**” means an Obligor, Odysia NB, any Approved Manager or any other member of the Group who executes a Finance Document.

“**Transaction Security**” means the Security created or evidenced or expressed to be created or evidenced under the Security Documents.

“**Transfer Certificate**” means a certificate substantially in the form set out in Schedule 4 (*Form of Transfer Certificate*) or any other form agreed between the Facility Agent (acting on the instructions of the Majority Lenders) and the Borrowers.

“**Transfer Date**” means, in relation to an assignment or a transfer, the later of:

- (a) the proposed Transfer Date specified in the relevant Assignment Agreement or Transfer Certificate; and
- (b) the date on which the Facility Agent executes the relevant Assignment Agreement or Transfer Certificate.

“**UK Establishment**” means a UK establishment as defined in the Overseas Regulations.

“**Unpaid Sum**” means any sum due and payable but unpaid by an Obligor under the Finance Documents.

“**US**” means the United States of America.

“**US Tax Obligor**” means:

- (a) a person which is resident for tax purposes in the US; or
- (b) a person some or all of whose payments under the Finance Documents are from sources within the US for US federal income tax purposes.

“**Utilisation**” means a utilisation of the Facility.

**“Utilisation Date”** means the date of the Utilisation, being the date on which the Loan is to be advanced.

**“Utilisation Request”** means a notice substantially in the form set out in Part A of Schedule 3 (*Requests*).

**“VAT”** means:

- (a) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and
- (b) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) above, or imposed elsewhere.

**“Write-down and Conversion Powers”** means:

- (a) in relation to any Bail-In Legislation described in the EU Bail-In Legislation Schedule from time to time, the powers described as such in relation to that Bail-In Legislation in the EU Bail-In Legislation Schedule; and
- (b) in relation to any other applicable Bail-In Legislation:
  - (i) any powers under that Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers; and
  - (ii) any similar or analogous powers under that Bail-In Legislation.

## **1.2 Construction**

- (a) Unless a contrary indication appears, a reference in this Agreement to:
  - (ii) the **“Account Bank”**, the **“Facility Agent”**, any **“Finance Party”**, any **“Hedge Counterparty”**, any **“Lender”**, any **“Obligor”**, any **“Party”**, any **“Secured Party”**, the **“Security Agent”**, any **“Transaction Obligor”** or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Finance Documents;
  - (iii) **“assets”** includes present and future properties, revenues and rights of every description;
  - (iv) a liability which is **“contingent”** means a liability which is not certain to arise and/or the amount of which remains unascertained;

- (v) “**document**” includes a deed and also a letter, fax, email or telex;
  - (vi) “**expense**” means any kind of cost, charge or expense (including all legal costs, charges and expenses) and any applicable Tax including VAT;
  - (vii) a “**Finance Document**”, a “**Security Document**”, “**Transaction Document**”, “**Relevant Retranching Document**” or any other agreement or instrument is a reference to that Finance Document, Security Document or Transaction Document or other agreement or instrument as amended, novated, supplemented, extended or restated;
  - (viii) a “**group of Lenders**” includes all the Lenders;
  - (ix) “**indebtedness**” includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
  - (x) “**law**” includes any order or decree, any form of delegated legislation, any treaty or international convention and any regulation or resolution of the Council of the European Union, the European Commission, the United Nations or its Security Council;
  - (xi) “**proceedings**” means, in relation to any enforcement provision of a Finance Document, proceedings of any kind, including an application for a provisional or protective measure;
  - (xii) a “**person**” includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
  - (xiii) a “**regulation**” includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
  - (xiv) a provision of law is a reference to that provision as amended or re-enacted;
  - (xv) a time of day is a reference to London time;
  - (xvi) any English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall, in respect of a jurisdiction other than England, be deemed to include that which most nearly approximates in that jurisdiction to the English legal term;
  - (xvii) words denoting the singular number shall include the plural and vice versa; and
  - (xviii) “**including**” and “**in particular**” (and other similar expressions) shall be construed as not limiting any general words or expressions in connection with which they are used.
- (b) The determination of the extent to which a rate is “**for a period equal in length**” to an Interest Period shall disregard any inconsistency arising from the last day of that Interest Period being determined pursuant to the terms of this Agreement.
- (c) Section, Clause and Schedule headings are for ease of reference only and are not to be used for the purposes of construction or interpretation of the Finance Documents.



- (d) Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under, or in connection with, any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.
- (e) A Potential Event of Default is “**continuing**” if it has not been remedied or waived and an Event of Default is “**continuing**” if it has not been waived.

### 1.3 Construction of insurance terms

In this Agreement:

“**approved**” means, for the purposes of Clause 24 (*Insurance Undertakings*), approved in writing by the Facility Agent (acting on the instructions of the Majority Lenders).

“**excess risks**” means, in respect of a Ship, the proportion of claims for general average, salvage and salvage charges not recoverable under the hull and machinery policies in respect of that Ship in consequence of its insured value being less than the value at which that Ship is assessed for the purpose of such claims.

“**obligatory insurances**” means all insurances effected, or which any Borrower is obliged to effect, under Clause 24 (*Insurance Undertakings*) or any other provision of this Agreement or of another Finance Document.

“**policy**” includes a slip, cover note, certificate of entry or other document evidencing the contract of insurance or its terms.

“**protection and indemnity risks**” means the usual risks covered by a protection and indemnity association managed in London, including pollution risks and the proportion (if any) of any sums payable to any other person or persons in case of collision which are not recoverable under the hull and machinery policies by reason of the incorporation in them of clause 6 of the International Hull Clauses (1/11/02) (1/11/03), clause 8 of the Institute Time Clauses (Hulls) (1/10/83) (1/11/95) or the Institute Amended Running Down Clause (1/10/71) or any equivalent provision.

“**war risks**” includes the risk of mines and all risks excluded by clause 29 of the International Hull Clauses (1/11/02 or 1/11/03), clause 24 of the Institute Time Clauses (Hulls) (1/11/95) or clause 23 of the Institute Time Clauses (Hulls) (1/10/83) or any equivalent provision.

### 1.4 Agreed forms of Finance Documents

References in Clause 1.1 (*Definitions*) to any Finance Document being in “agreed form” are to that Finance Document in such form agreed in writing between each Borrower and the Facility Agent acting with the authorisation of the Majority Lenders or, where Clause 44.2 (*All Lender matters*) applies, all the Lenders.

### 1.5 Third party rights

- (a) Unless expressly provided to the contrary in a Finance Document, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the “**Third Parties Act**”) to enforce or to enjoy the benefit of any term of this Agreement.

- (b) Subject to Clause 44.3 (*Other exceptions*) but otherwise notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Agreement at any time.
- (c) Any Affiliate, Receiver, Delegate or for the purposes of Clause 14.2 (*Other indemnities*), Clause 14.4 (*Indemnity to the Facility Agent*), any Indemnified Person, or any other person described in paragraph (b) of Clause 31.11 (*Exclusion of liability*), Clause 31.21 (*Role of Reference Banks*), or Clause 31.22 (*Third Party Reference Banks*) may, subject to this Clause 1.5 (*Third party rights*) and the Third Parties Act, rely on any Clause of this Agreement which expressly confers rights on it.

#### **1.6 Intercreditor Agreement**

- (a) This Agreement is entered into subject to, and with the benefit of, the terms of the Intercreditor Agreement.
- (b) Notwithstanding anything to the contrary in the Agreement, the terms of the Intercreditor Agreement will prevail if there is a conflict between the terms of the Agreement and the terms of the Intercreditor Agreement.
- (c) The fact that a provision of this Agreement is expressed to be subject to the terms of the Intercreditor Agreement does not mean, and will not be taken to mean, that any other provision of this Agreement is not so subject.
- (d) It is acknowledged by the parties that their rights and obligations under this Agreement are subject to the terms of the Intercreditor Agreement. Until the Senior Debt Discharge Date, no payment may be made and no right of set-off may be exercised and no enforcement action may be taken in respect of any payment to be made under this Agreement, save as expressly permitted by the Intercreditor Agreement.

**SECTION 2**  
**THE FACILITY**

**2 THE FACILITY**

**2.1 The Facility**

Subject to the terms of this Agreement, the Lenders make available to the Borrowers a dollar term loan facility in three Tranches in an aggregate amount not exceeding the Total Commitments.

**2.2 Finance Parties' rights and obligations**

- (a) The obligations of each Finance Party under the Finance Documents are several. Failure by a Finance Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.
- (b) The rights of each Finance Party under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Finance Party from a Transaction Obligor is a separate and independent debt in respect of which a Finance Party shall be entitled to enforce its rights in accordance with paragraph (c) below. The rights of each Finance Party include any debt owing to that Finance Party under the Finance Documents and, for the avoidance of doubt, any part of the Loan or any other amount owed by a Transaction Obligor which relates to a Finance Party's participation in the Facility or its role under a Finance Document (including any such amount payable to the Facility Agent on its behalf) is a debt owing to that Finance Party by that Transaction Obligor.
- (c) A Finance Party may, except as specifically provided in the Finance Documents, separately enforce its rights under or in connection with the Finance Documents.

**2.3 Borrowers' Agent**

- (a) Each Borrower by its execution of this Agreement irrevocably appoints Guarantor A to act on its behalf as its agent in relation to the Finance Documents and irrevocably authorises:
  - (i) Guarantor A on its behalf to supply all information concerning itself contemplated by this Agreement to the Finance Parties and to give all notices and instructions (including the Utilisation Request), to make such agreements and to effect the relevant amendments, supplements and variations capable of being given, made or effected by any Borrower notwithstanding that they may affect the Borrowers, without further reference to or the consent of that Borrower; and
  - (ii) each Finance Party to give any notice, demand or other communication to that Borrower pursuant to the Finance Documents to Guarantor A,

and in each case the Borrowers shall be bound as though that Borrower itself had given the notices and instructions (including, without limitation, the Utilisation Request) or executed or made the agreements or effected the amendments, supplements or variations, or received the relevant notice, demand or other communication.

- (b) Every act, omission, agreement, undertaking, settlement, waiver, amendment, supplement, variation, notice or other communication given or made by Guarantor A or given to Guarantor A under any Finance Document on behalf of a Borrower or in connection with any Finance Document (whether or not known to any Borrower) shall be binding for all purposes on that Borrower as if that Borrower had expressly made, given or concurred with it. In the event of any conflict between any notices or other communications of Guarantor A and any Borrower, those of Guarantor A shall prevail.

### **3 PURPOSE**

#### **3.1 Purpose**

Each Borrower shall apply all amounts borrowed by it under the Facility only for the purpose of prepaying in part the Existing Indebtedness.

#### **3.2 Monitoring**

No Finance Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

### **4 CONDITIONS OF UTILISATION**

#### **4.1 Initial conditions precedent**

Pursuant to the provisions of the Amendment and Restatement Deed, the Lenders shall not be obliged to make the Facility available to the Borrowers unless the Facility Agent has received all of the documents and other evidence listed in Schedule 2 (*Conditions Precedent*) in form and substance satisfactory to the Facility Agent (acting on the instructions of the Lenders).

#### **4.2 Further conditions precedent**

The Lenders will only be obligated to comply with Clause 5.4 (*Lenders' participation*) if on the date of the Utilisation Request and on the proposed Utilisation Date and before the Loan is made available:

- (a) no Default is continuing or would result from the proposed Loan;
- (b) the Repeating Representation to be made by each Obligor are true;
- (c) no event described in paragraph (a) of Clause 7.2 (*Change of Control*) has occurred;
- (d) no Ship has either been sold nor become a Total Loss; and
- (e) the provisions of paragraph (b) of Clause 10.3 (*Market disruption*) do not apply.

#### **4.3 Notification of satisfaction of conditions precedent**

- (a) The Facility Agent shall promptly send to the Lenders all of the conditions precedent referred to in Clause 4.1 (*Initial conditions precedent*) which it has received.
- (b) Each Lender shall promptly confirm to the Facility Agent in writing that it is satisfied as to the satisfaction of the conditions precedent referred to in Clause 4.1 (*Initial conditions precedent*).

- (c) The Facility Agent shall notify the Borrowers, the Lenders and the Senior Facility Agent promptly upon receipt of those confirmations referred to it sub-paragraph (b) above from all of the Lenders.
- (d) Other than to the extent that the Majority Lenders notify the Facility Agent in writing to the contrary before the Facility Agent gives the notification described in paragraph (a) above, the Lenders authorise (but do not require) the Facility Agent to give that notification. The Facility Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.

#### **4.4 Waiver of conditions precedent**

If the Lenders, at their discretion, permit the Loan to be borrowed before any of the conditions precedent referred to in Clause 4.1 (*Initial conditions precedent*) has been satisfied, the Borrowers shall ensure that that condition is satisfied within five Business Days after the Utilisation Date or such later date as the Facility Agent, acting with the authorisation of the Majority Lenders, may agree in writing with the Borrowers.

#### **4.5 Conditions Subsequent**

The Borrowers shall provide no later than 31 January 2019, all of the documents and other evidence listed in Schedule 3 (*Conditions Subsequent*) of the Amendment and Restatement Deed, in each case in customary form and substance satisfactory to the Facility Agent (acting on the instructions of the Majority Lenders). Any failure by the Borrowers to comply with this provision shall constitute an Event of Default. The conditions subsequent set forth herein may be waived or deferred by the Facility Agent (acting on the instructions of the Majority Lenders) in whole or in part and with or without conditions.

**SECTION 3**

**UTILISATION**

**5 UTILISATION**

**5.1 Delivery of Utilisation Request**

Upon receipt of a Junior Facility Utilisation Notice from the Arranger (as such term is defined in the Senior Facility Agreement) pursuant to the terms of the Amendment and Restatement Deed, the Borrowers shall immediately deliver to the Facility Agent a duly completed Utilisation Request in respect of all three Tranches.

**5.2 Completion of Utilisation Request**

- (a) The Utilisation Request is irrevocable.
- (b) The Utilisation Request shall specify a Utilisation Date which falls one (1) Business Day following the date of the Utilisation Request.
- (c) The Utilisation Request shall specify that the proceeds of the Utilisation (net of any payment of fees due to the Lenders) shall be paid to the Senior Facility Agent for application in prepayment of the Senior Loan in accordance with the provisions of the Amendment and Restatement Deed.

**5.3 Currency and amount**

- (a) The currency specified in the Utilisation Request must be dollars.
- (b) The amount specified in the Utilisation Request shall be equal to the Total Commitments.

**5.4 Lenders' participation**

- (a) If the conditions set out in this Agreement have been met, each Lender shall make its participation in the Loan available by the Utilisation Date through its Facility Office.
- (b) The amount of each Lender's participation in the Loan will be the amount of its Commitment.
- (c) The Facility Agent shall notify each Lender of the receipt of the Utilisation Request.

**5.5 [Intentionally omitted]**

**5.6 Retentions and payment to third parties**

The Borrowers irrevocably authorise the Facility Agent on the Utilisation Date, to pay to, or for the account of, the Borrower which is to utilise the Loan the amounts which the Facility Agent receives from the Lenders in respect of the Loan. That payment shall be made in like funds as the Facility Agent received from the Lenders in respect of the Loan to the account of the Senior Facility Agent as specified in the Utilisation Request.

**5.7 Disbursement of Advance to third party**

Payment by the Facility Agent under Clause 5.6 (*Retentions and payment to third parties*) to the Senior Facility Agent in accordance with the provisions of Clause 5.2 (*Completion of Utilisation Request*) shall constitute the making of the Loan and the Borrowers shall at that time become indebted, as principal and direct obligors, to each Lender in an amount equal to that Lender's participation in the Loan.

**5.8 [Intentionally omitted]**

## SECTION 4

### REPAYMENT, PREPAYMENT AND CANCELLATION

#### 6 REPAYMENT

##### 6.1 Repayment of Loan

The Borrowers shall, subject to Clause 6.2 (*Cash Sweep Repayment*) repay each Tranche by 14 consecutive quarterly instalments and one balloon instalment (each a "**Repayment Instalment**" and together, the "**Repayment Instalments**"), the first of which shall be repaid on 14 February 2019 and the last on 14 May 2022, and the balloon instalment on the Termination Date in the following amounts:

- (a) in respect of Tranche A, the first 14 (1<sup>st</sup> – 14<sup>th</sup>) each such instalments in an amount of \$236,234.08 with the balloon instalment in the amount of up to \$9,559,389.54 , (the "**Balloon Instalment A**");
- (b) in respect of Tranche B, the first 14 (1<sup>st</sup> – 14<sup>th</sup>) each such instalments in an amount of \$234,816.67.00 with the balloon instalment in the amount of up to \$9,579,233.29, (the "**Balloon Instalment B**"); and
- (c) in respect of Tranche C, the first 14 (1<sup>st</sup> – 14<sup>th</sup>) each such instalments in an amount of \$233,369.76 with the balloon instalment in the amount of up to \$9,599,490.03, (the "**Balloon Instalment C**" and together with the Balloon Instalment A and the Balloon Instalment B, the "**Balloon Instalments**").

##### 6.2 Cash Sweep Repayment

- (a) In addition to the repayments under Clause 6.1 (*Repayment of Loan*) above, if the DSCR at the end of a Cash Sweep Period is higher than 1.10:1, the Borrowers shall transfer to the Retention Account on the Determination Date an amount equal to the Cash Sweep Amount, to be applied against the Loan and the Senior Loan in the manner set out in paragraph (b) below, on the Repayment Date falling due after the Cash Flow Certificate has been provided. The DSCR and the Cash Sweep Amount (if any) shall be evidenced by a Cash Flow Certificate which the Borrowers shall provide to the Senior Facility Agent, with a copy to the Facility Agent, 45 days after the end of relevant Cash Sweep Period pursuant to the terms of the Senior Facility Agreement. For the avoidance of doubt, under the provisions of the Senior Facility Agreement, if the Senior Facility Agent does not receive the Cash Flow Certificate at least 3 Business Days prior to the relevant Repayment Date it shall not be obliged to make the relevant application under Clause 27.6 (*Application of retentions*) pursuant to the terms of the Senior Facility Agreement.
- (b) Any repayment made under paragraph (a) above shall be applied in accordance with clause 14.2 (*Cash Sweep Repayment*) of the Intercreditor Agreement.
- (c) For the purposes of this Clause 6.2:

"**Cash Flow**" means, in relation to a Cash Sweep Period, the amount (if any) by which the Revenues exceed the aggregate of (i) OpEx, (ii) Dry-Docking Reserve Accrual and (iii) any other amount as may be required to be transferred to the Liquidity Account in order to ensure



compliance with the liquidity requirements set out in Clause 22.1 (*Borrowers' minimum liquidity*).

**"Cash Flow Certificate"** means, in relation to a Cash Sweep Period, a certificate signed by the chief financial officer of Guarantor A and addressed to the Senior Facility Agent (with a copy to the Facility Agent), setting out (in reasonable detail) the computations of the DSCR and the Cash Sweep Amount (if any) as at the last day of that Cash Sweep Period.

**"Cash Flow Debt Service"** means in relation to:

- (a) the First Cash Sweep Period, an amount equal to the sum of:
  - (i) the product of (A) the number of days between the Utilisation Date and 31 December 2018 and (B) the first Repayment Instalment, divided by 90;
  - (ii) the accrued interest from the Utilisation Date until 31 December 2018; and
- (b) a Subsequent Cash Sweep Period, means the Debt Service payable during that Subsequent Cash Sweep Period.

**"Cash Sweep Amount"** means an amount which when applied in repayment of the Loan and/or the Senior Loan pursuant to paragraph (b) of this Clause 6.2 would result in the DSCR being equal to 1.10:1.

**"Cash Sweep Period"** means the First Cash Sweep Period or a Subsequent Cash Sweep Period.

**"Determination Date"** means the date on which the Facility Agent determines pursuant to the terms of the Senior Facility Agreement, on the basis of the Cash Flow Certificate and any information provided to the Senior Facility Agent pursuant to Clause 21.5 (*Information: miscellaneous*), the Cash Sweep Amount.

**"DSCR"** means, in relation to a Cash Sweep Period, the ratio of:

- (a) the Cash Flow; to
- (b) the Cash Flow Debt Service,

as at the last day of that Cash Sweep Period.

**"First Cash Sweep Period"** means the period commencing on the Utilisation Date and ending on the date on which the then current Cash Sweep Period pursuant to, and as defined in, the Senior Facility Agreement, ends.

**"Revenues"** means, in relation to a Cash Sweep Period, the aggregate Earnings of the Ships minus any commissions in relation to the chartering of the Ships for that Cash Sweep Period.

**"OpEx"** means, in relation to a Cash Sweep Period, the aggregate costs and expenses appropriately and properly incurred in operating the Ships (and proven if so requested by the Senior Facility Agent pursuant to the terms of the Senior Facility Agreement), including expenses for crewing, victualling, insuring, maintenance, spares, management, operation, voyage (if payable by the Borrowers (or any of them)) and general administrative expenses of the Ships for that Cash Sweep Period.

“**Subsequent Cash Sweep Period**” means each 3-month period ending on 31 March, 30 June, 30 September and 31 December.

### **6.3 Effect of cancellation and prepayment on scheduled repayments**

- (a) If the Borrowers cancel the whole or any part of any Commitment in accordance with Clause 7.7 (*Right of repayment and cancellation in relation to a single Lender*) or if the Commitment of any Lender is cancelled under Clause 7.1 (*Illegality*) then the Repayment Instalments and the Balloon Instalment in relation to the relevant Tranche falling after that cancellation will be reduced in inverse order of maturity by the amount of the Commitments so cancelled.
- (b) **[Intentionally Omitted]**
- (c) If any part of the Loan is repaid or prepaid in accordance with Clause 7.7 (*Right of repayment and cancellation in relation to a single Lender*) or Clause 7.1 (*Illegality*), such partial prepayment shall be applied between the Tranches on a *pro rata* basis and as against each individual Tranche against the then outstanding Repayment Instalments in inverse chronological order of maturity (commencing, for the avoidance of doubt, with the Balloon Instalment applicable to that Tranche).
- (d) If any part of the Loan is prepaid in accordance with Clause 7.5 (*Mandatory prepayment on sale or Total Loss*) or Clause 7.6 (*Mandatory prepayment of Hedging Prepayment Proceeds*), such partial prepayment shall be applied between the Tranches on a *pro rata* basis and as against each individual Tranche against the then outstanding Repayment Instalments in inverse chronological order of maturity (commencing, for the avoidance of doubt, with the Balloon Instalment applicable to that Tranche).
- (e) If any part of the Loan is prepaid in accordance with Clause 7.4 (*Voluntary prepayment of Loan*), such partial prepayment shall be applied against the Tranche being prepaid and within that Tranche it shall reduce the Repayment Instalments falling due after that date in inverse chronological order of maturity (commencing, for the avoidance of doubt, with the Balloon Instalment relevant to that Tranche).

### **6.4 Termination Date**

On the Termination Date, the Borrowers shall additionally pay to the Facility Agent for the account of the Finance Parties all other sums then accrued and owing under the Finance Documents.

### **6.5 Reborrowing**

No Borrower may reborrow any part of the Facility which is repaid.

## **7 PREPAYMENT AND CANCELLATION**

### **7.1 Illegality**

If it is or becomes unlawful in any applicable jurisdiction for a Lender to perform any of its obligations as contemplated by this Agreement or to fund or maintain its participation in an Advance or the Loan or it becomes unlawful for any Affiliate of a Lender for that Lender to do so:

- (a) that Lender shall promptly notify the Facility Agent upon becoming aware of that event;
- (b) upon the Facility Agent notifying the Borrowers, the Available Commitment of that Lender will be immediately cancelled; and
- (c) the Borrowers shall prepay that Lender's participation in the Loan on the last day of the Interest Period for the Loan occurring after the Facility Agent has notified the Borrowers or, if earlier, the date specified by the Lender in the notice delivered to the Facility Agent (being no earlier than the last day of any applicable grace period permitted by law) and that Lender's corresponding Commitment shall be cancelled in the amount of the participation prepaid.

## **7.2 Change of control**

If a Change of Control occurs the Borrowers and the Guarantors shall promptly notify the Facility Agent upon becoming aware of that event and if the Lenders so require, the Facility Agent shall (acting on the instructions of the Lenders), by not less than 30 days' notice to the Borrowers, cancel the Facility and declare the Loan, together with accrued interest, and all other amounts accrued under the Finance Documents immediately due and payable, whereupon the Facility will be cancelled and the Loan and interest and other amounts will become immediately due and payable.

For the purpose of this Clause, a "Change of Control" occurs during the Security Period :

- (i) at any time during the six-month period commencing from the date on which the Merger is completed, the non-floating shareholders that hold voting rights in the New Parent (as disclosed to the Senior Facility Agent on the date of such Merger) immediately following such Merger cease to own (either directly or through one or more of their affiliates) collectively an amount that is more than 100 per cent. of the voting rights in the New Parent (or its successor) owned by them as on the date on which the Merger is completed; or
- (ii) Mr George Giouroukos ceases to be the Executive Chairman (or to maintain an equivalent executive officer position) of the New Parent other than by reason of death or other incapacity in managing his affairs; or
- (iii) any change in the direct legal ownership of any of the Borrowers; or
- (iv) Mr George Giouroukos ceases to own at least 50 per cent. of the number of shares of the New Parent (either directly or through one or more affiliates) held by him on the date of the completion of the Merger (excluding any share split or reverse split) other than by reason of death or other incapacity in managing his affairs; or
- (v) any person(s) owns more than 35 per cent. of the shares in the New Parent, unless such person(s) owned such shares on the date of the completion of the Merger.

## **7.3 [Intentionally omitted]**

## **7.4 Voluntary prepayment of Loan**

The Borrowers may, if they give the Facility Agent not less than ten Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, prepay the whole or any part of the Loan (but, if in part, being an amount that reduces the amount of the Loan by a minimum

amount equal to \$1,000,000 or a multiple of that amount (or such other amount as the Majority Lenders may agree in their sole discretion)).

#### **7.5 Mandatory prepayment on sale or Total Loss**

(a) If a Ship is sold (without prejudice to paragraph (a) of Clause 23.13 (*Disposals*)) or becomes a Total Loss, the Borrowers shall on the Relevant Date prepay the Relevant Amount.

(b) In this Clause 7.5 (*Mandatory prepayment on sale or Total Loss*):

“**Relevant Amount**” means an amount equal to:

- (i) the outstanding amount of the Tranche relevant to the Ship which is sold or has become a Total Loss; and
- (ii) an amount (if any) which, after the application of the prepayment to be made pursuant to this Clause 7.5 (*Mandatory prepayment on sale or Total Loss*) results in the minimum required security cover set out in Clause 26.1 (*Minimum required security cover*) being complied with.

“**Relevant Date**” means:

- (A) in the case of a sale of a Ship, on the earlier of:
  - (A) the date on which the sale is completed by delivery of that Ship to the buyer of that Ship; and
  - (B) the date of receipt by the Security Agent of the proceeds of the sale;
- (B) in the case of a Total Loss of a Ship, on the earlier of:
  - (A) the date falling 120 days after the Total Loss Date; and
  - (B) the date of receipt by the Security Agent of the proceeds of insurance relating to such Total Loss.

#### **7.6 Mandatory prepayment of Hedging Prepayment Proceeds**

Any Hedging Prepayment Proceeds arising as a result of any cancellation or prepayment under this Agreement shall, following payment into the Retention Account in accordance with Clause 27.2 (*Payment of Earnings*), be applied rateably on the last day of each Interest Period which ends after such payment in prepayment of the Loan.

#### **7.7 Right of repayment and cancellation in relation to a single Lender**

- (a) If:
  - (i) any sum payable to any Lender by a Transaction Obligor is required to be increased under paragraph (c) of Clause 12.2 (*Tax gross-up*) or under that clause as incorporated by reference or in full in any other Finance Document; or

(ii) any Lender claims indemnification from a Borrower under Clause 12.3 (*Tax indemnity*) or Clause 13.1 (*Increased costs*),

the Borrowers may, whilst the circumstance giving rise to the requirement for that increase or indemnification continues, give the Facility Agent notice of cancellation of the Commitment of that Lender and its intention to procure the repayment of that Lender's participation in the Loan.

- (b) On receipt of a notice of cancellation referred to in paragraph (a) above, the Commitment of that Lender shall immediately be reduced to zero.
- (c) On the last day of each Interest Period which ends after the Borrowers have given notice of cancellation under paragraph (a) above in relation to a Lender (or, if earlier, the date specified by the Borrowers in that notice), the Borrowers shall repay that Lender's participation in the Loan.

#### **7.8 Restrictions**

- (a) Any notice of cancellation or prepayment given by any Party under this Clause 7 (*Prepayment and Cancellation*) shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made, the amount of that cancellation or prepayment and, if relevant, the part of the Loan to be prepaid or cancelled.
- (b) Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid and amounts (if any) payable under the Hedging Agreements in connection with that prepayment and, subject to the fee provided for in Clause 11.2 (*Prepayment and cancellation fee*) and any Break Costs, without premium or penalty.
- (c) No Borrower may reborrow any part of the Facility which is prepaid.
- (d) No Borrower shall repay or prepay all or any part of the Loan or cancel all or any part of the Commitments except at the times and in the manner expressly provided for in this Agreement.
- (e) No amount of the Total Commitments cancelled under this Agreement may be subsequently reinstated.
- (f) If the Facility Agent receives a notice under this Clause 7 (*Prepayment and Cancellation*) it shall promptly forward a copy of that notice to either the Borrowers or the affected Lenders and/or Hedge Counterparties, as appropriate.
- (g) If all or part of any Lender's participation in the Loan is repaid or prepaid, an amount of that Lender's Commitment (equal to the amount of the participation which is repaid or prepaid) will be deemed to be cancelled on the date of repayment or prepayment.

#### **7.9 Application of prepayments**

Any prepayment of any part of the Loan (other than a prepayment pursuant to Clause 7.1 (*Illegality*), Clause 7.4 (*Voluntary prepayment of Loan*) or Clause 7.7 (*Right of repayment and cancellation in relation to a single Lender*)) shall be applied pro rata to each Lender's participation in that part of the Loan.



**SECTION 5**  
**COSTS OF UTILISATION**

**8 INTEREST**

**8.1 Calculation of interest**

The rate of interest on the Loan or any part of the Loan for each Interest Period is the percentage rate per annum which is the aggregate of:

- (a) the Margin; and
- (b) LIBOR,

save that in respect of the first Interest Period only, the rate of interest on the Loan or any part of the Loan shall be 12.61413%.

**8.2 Payment of interest**

- (a) The Borrowers shall pay accrued interest on the Loan or any part of the Loan on the last day of each Interest Period (each an "**Interest Payment Date**").
- (b) If an Interest Period is longer than three Months, the Borrowers shall also pay interest then accrued on the Loan or the relevant part of the Loan on the dates falling at three Monthly intervals after the first day of the Interest Period.

**8.3 Default interest**

- (a) If an Obligor fails to pay any amount payable by it under a Finance Document other than a Hedging Agreement on its due date, interest shall accrue on the Unpaid Sum from the due date up to the date of actual payment (both before and after judgment) at a rate which, subject to paragraph (b) below, is 2 per cent. per annum higher than the rate which would have been payable if the Unpaid Sum had, during the period of non-payment, constituted part of the Loan in the currency of the Unpaid Sum for successive Interest Periods, each of a duration selected by the Facility Agent (acting on the instructions of the Majority Lenders). Any interest accruing under this Clause 8.3 (*Default interest*) shall be immediately payable by the Obligor on demand by the Facility Agent (acting on the instructions of the Majority Lenders).
- (b) If an Unpaid Sum consists of all or part of the Loan which became due on a day which was not the last day of an Interest Period relating to the Loan or that part of the Loan:
  - (i) the first Interest Period for that Unpaid Sum shall have a duration equal to the unexpired portion of the current Interest Period relating to the Loan or that part of the Loan; and
  - (ii) the rate of interest applying to that Unpaid Sum during that first Interest Period shall be 2 per cent. per annum higher than the rate which would have applied if that Unpaid Sum had not become due.

- (c) Default interest (if unpaid) arising on an Unpaid Sum will be compounded with the Unpaid Sum at the end of each Interest Period applicable to that Unpaid Sum but will remain immediately due and payable.

#### **8.4 Notification of rates of interest**

- (a) The Facility Agent shall promptly notify the Lenders and the Borrowers of the determination of a rate of interest under this Agreement.
- (b) The Facility Agent shall promptly notify the Borrowers of each Funding Rate relating to the Loan, any part of the Loan or any Unpaid Sum.

#### **8.5 Hedging**

- (a) The Borrowers may from time to time enter into Hedging Agreements for the purposes of hedging interest payable under this Agreement and in accordance with the other provisions of this Agreement, provided always that the Borrowers shall (i) not enter into or maintain any Hedging Agreements which are speculative in nature and (ii) ensure that at all times it shall enter into and maintain Hedging Agreements in relation to which the Total Hedged Amount is not less than the Minimum Required Hedged Amount.
- (b) Each Hedging Agreement shall:
  - (i) be with a Hedge Counterparty;
  - (ii) be for a term ending on the Termination Date or such other date or dates as the Majority Lenders may agree;
  - (iii) have settlement dates coinciding with the Interest Payment Dates;
  - (iv) be based on an ISDA Master Agreement and otherwise in form and substance satisfactory to the Facility Agent (acting on the instructions of the Majority Lenders), including containing a cross default clause in respect of this Agreement; and
  - (v) provide that the Termination Currency (as defined in the relevant Hedging Agreement) shall be dollars.
- (c) The rights of each Borrower under the Hedging Agreements and any Hedge Counterparty Guarantee shall be charged or assigned by way of security under a Hedging Agreement Security.
- (d) The parties to each Hedging Agreement must comply with the terms of that Hedging Agreement.
- (e) Neither a Hedge Counterparty nor a Borrower may amend, supplement, extend or waive the terms of any Hedging Agreement or Hedge Counterparty Guarantee without the consent of the Security Agent (acting on the instructions of the Majority Lenders).
- (f) Paragraph (e) above shall not apply to an amendment, supplement or waiver that is administrative and mechanical in nature and does not give rise to a conflict with any provision of this Agreement or the Hedging Agreement Security.



- (g) If, at any time, the aggregate notional amount of the transactions in respect of the Hedging Agreements exceeds or, as a result of any repayment or prepayment under this Agreement, will exceed the Loan at that time, the Borrowers must promptly notify the Facility Agent and must, at the request of the Facility Agent (acting on the instructions of the Majority Lenders), reduce the aggregate notional amount of those transactions by an amount and in a manner satisfactory to the Facility Agent (acting on the instructions of the Majority Lenders) so that it no longer exceeds or will not exceed the Loan then or that will be outstanding.
- (h) Any reductions in the aggregate notional amount of the transactions in respect of the Hedging Agreements in accordance with paragraph (g) above will be apportioned as between those transactions *pro rata*.
- (i) Paragraph (g) above shall not apply to any transactions in respect of any Hedging Agreement under which no Borrower has any actual or contingent indebtedness.
- (j) The Facility Agent must make a request under paragraph (g) above if so required by a Hedge Counterparty.
- (k) Neither a Hedge Counterparty nor a Borrower may terminate or close out any transactions in respect of any Hedging Agreement (in whole or in part) except:
  - (i) in accordance with paragraphs (g)-(j) above;
  - (ii) on the occurrence of an Illegality, (as such expression is defined in the relevant Hedging Agreement);
  - (iii) in the case of termination or closing out by a Hedge Counterparty, if the Facility Agent serves notice under paragraph (ii) of Clause 28.19 (*Acceleration*) or, having served notice under paragraph (iii) of Clause 28.19 (*Acceleration*), makes a demand;
  - (iv) in the case of any other termination or closing out by a Hedge Counterparty or a Borrower, with the consent of the Facility Agent, acting on the instructions of the Majority Lenders; or
  - (v) if the Secured Liabilities (excluding any Secured Liabilities under the Senior Facility Agreement) (other than in respect of the Hedging Agreements) have been irrevocably and unconditionally paid and discharged in full;
- (l) If a Hedge Counterparty or a Borrower terminates or closes out a transaction in respect of a Hedging Agreement (in whole or in part) in accordance with sub-paragraphs (ii) or (in the case of a Hedge Counterparty only) (iv) of paragraph (k) above, it shall promptly notify the Facility Agent of that termination or close out.
- (m) If a Hedge Counterparty is entitled to terminate or close out any transaction in respect of any Hedging Agreement under sub-paragraph (iii) of paragraph (k) above, such Hedge Counterparty shall promptly terminate or close out such transaction following a request to do so by the Security Agent (acting on the instructions of the Majority Lenders).
- (n) A Hedge Counterparty may only suspend making payments under a transaction in respect of a Hedging Agreement if a Borrower is in breach of its payment obligations under any transaction in respect of that Hedging Agreement.

- (o) Each Hedge Counterparty consents to, and acknowledges notices of, the charging or assigning by way of security by each Borrower pursuant to the relevant Hedging Agreement Security of its rights under the Hedging Agreements to which it is party in favour of the Security Agent.
- (p) Any such charging or assigning by way of security is without prejudice to, and after giving effect to, the operation of any payment or close-out netting in respect of any amounts owing under any Hedging Agreement.
- (q) The Security Agent shall not be liable for the performance of any of a Borrower's obligations under a Hedging Agreement.
- (r) No Borrower or Hedge Counterparty shall assign any of its rights or transfer any of its rights or obligations under a Hedging Agreement or permit a change of Hedge Counterparty Guarantor without the consent of the Security Agent (acting on the instructions of the Majority Lenders).

## **9 INTEREST PERIODS**

### **9.1 Selection of Interest Periods**

- (a) The Borrowers may select the Interest Period for the Loan in the Utilisation Request. Subject to paragraphs (f) and (h) below and Clause 9.2 (*Changes to Interest Periods*), the Borrowers may select each subsequent Interest Period in respect of the Loan in a Selection Notice.
- (b) Each Selection Notice is irrevocable and must be delivered to the Facility Agent by the Borrowers not later than the Specified Time.
- (c) If the Borrowers fail to select an Interest Period in the first Utilisation Request or fail to deliver a Selection Notice to the Facility Agent in accordance with paragraphs (a) and (b) above, the relevant Interest Period will, subject to paragraphs (f), (g) and (h) below and Clause 9.2 (*Changes to Interest Periods*), be three Months.
- (d) Subject to this Clause 9 (*Interest Periods*), the Borrowers may select an Interest Period of three Months or any other period agreed between the Borrowers and the Facility Agent (acting on the instructions of all the Lenders).
- (e) An Interest Period in respect of the Loan or any part of the Loan shall not extend beyond the Termination Date.
- (f) In respect of a Repayment Instalment, the Borrowers may request in the relevant Selection Notice that an Interest Period for a part of the Loan equal to such Repayment Instalment shall end on the Repayment Date relating to it and, subject to paragraph (d) above, select a longer Interest Period for the remaining part of the Loan.
- (g) The first Interest Period for the Loan shall start on the Utilisation Date and shall end on the next Repayment Date and, subject to paragraph (h) below, each subsequent Interest Period shall start on the last day of its preceding Interest Period.
- (h) Except for the purposes of paragraph (f) above and Clause 9.2 (*Changes to Interest Periods*), the Loan shall have one Interest Period only at any time.

## 9.2 Changes to Interest Periods

- (a) In respect of a Repayment Instalment, prior to determining the interest rate for the Loan, the Facility Agent may establish an Interest Period for a part of the Loan equal to such Repayment Instalment to end on the Repayment Date relating to it and the remaining part of the Loan shall have the Interest Period selected in the relevant Selection Notice, subject to paragraph (d) of Clause 9.1 (*Selection of Interest Periods*).
- (b) If the Facility Agent makes any change to an Interest Period referred to in this Clause 9.2 (*Changes to Interest Periods*), it shall promptly notify the Borrowers and the Lenders.

## 9.3 Non-Business Days

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

## 10 CHANGES TO THE CALCULATION OF INTEREST

### 10.1 Unavailability of Screen Rate

- (a) *Interpolated Screen Rate*: If no Screen Rate is available for LIBOR for the Interest Period of the Loan or any part of the Loan, the applicable LIBOR shall be the Interpolated Screen Rate for a period equal in length to the Interest Period of the Loan or that part of the Loan.
- (b) *Reference Bank Rate*: If no Screen Rate is available for LIBOR for:
  - (i) dollars; or
  - (ii) the Interest Period of the Loan or any part of the Loan and it is not possible to calculate the Interpolated Screen Rate,
  - (iii) the applicable LIBOR shall be the Reference Bank Rate as of the Specified Time and for a period equal in length to the Interest Period of the Loan or that part of the Loan.
- (c) *Cost of funds*: If paragraph (b) above applies but no Reference Bank Rate is available for dollars or the relevant Interest Period there shall be no LIBOR for the Loan or that part of the Loan (as applicable) and Clause 10.4 (*Cost of funds*) shall apply to the Loan or that part of the Loan for that Interest Period.

### 10.2 Calculation of Reference Bank Rate

- (a) Subject to paragraph (b) below, if LIBOR is to be determined on the basis of a Reference Bank Rate but a Reference Bank does not supply a quotation by the Specified Time, the Reference Bank Rate shall be calculated on the basis of the quotations of the remaining Reference Banks.
- (b) If at or about noon on the Quotation Day none or only one of the Reference Banks supplies a quotation, there shall be no Reference Bank Rate for the relevant Interest Period.

### 10.3 Market disruption

- (a) If before close of business in London on the Quotation Day for the relevant Interest Period the Facility Agent receives notification from a Lender or Lenders (whose participations in the Loan or the relevant part of the Loan exceed 66 per cent. of the Loan or the relevant part of the Loan as appropriate) that the cost to it of funding its participation in the Loan or that part of the Loan from whatever source it may reasonably select for dollars would be in excess of LIBOR then Clause 10.4 (*Cost of funds*) shall apply to the Loan or that part of the Loan (as applicable) for the relevant Interest Period.
- (b) If, at least one Business Day before the Utilisation Date, the Facility Agent receives notification from a Lender (the “**Affected Lender**”) that for any reason it is unable to obtain dollars in the Relevant Interbank Market in order to fund its participation in an Advance, the Affected Lender’s obligation to participate in that Advance shall be suspended while that situation continues, provided however that the Affected Lender and/or the Facility Agent shall use reasonable endeavours to find an alternative method to fund the Loan.

### 10.4 Cost of funds

- (a) If this Clause 10.4 (*Cost of funds*) applies, the rate of interest on each Lender’s share of the Loan or the relevant part of the Loan for the relevant Interest Period shall be the percentage rate per annum which is the sum of:
  - (i) the Margin;
  - (ii) the rate notified to the Facility Agent by that Lender as soon as practicable and in any event before interest is due to be paid in respect of that Interest Period to be that which expresses as a percentage rate per annum the cost to the relevant Lender of funding its participation in the Loan or that part of the Loan from whatever source it may reasonably select; and
  - (iii) the Mandatory Cost, if any, applicable to that Lender’s participation in the Loan or that part of the Loan.
- (b) If this Clause 10.4 (*Cost of funds*) applies and the Facility Agent (acting on the instructions of the Lenders) or the Borrowers so require, the Facility Agent and the Borrowers shall enter into negotiations (for a period of not more than 30 days) with a view to agreeing a substitute basis for determining the rate of interest or (as the case may be) an alternative basis for funding.
- (c) Subject to Clause 44.4 (*Replacement of Screen Rate*), any substitute or alternative basis agreed pursuant to paragraph (b) above shall, with the prior consent of all the Lenders, the Facility Agent and the Borrowers, be binding on all Parties.
- (d) If paragraph (e) below does not apply and any rate notified to the Facility Agent under sub-paragraph (ii) of paragraph (a) above is less than zero, the relevant rate shall be deemed to be zero.
- (e) If this Clause 10.4 (*Cost of funds*) applies pursuant to Clause 10.3 (*Market disruption*) and:
  - (i) a Lender’s Funding Rate is less than LIBOR; or

(ii) a Lender does not supply a quotation by the time specified in sub-paragraph (ii) of paragraph (a) above, the cost to that Lender of funding its participation in the Loan or the relevant part of the Loan for that Interest Period shall be deemed, for the purposes of paragraph (a) above, to be LIBOR.

## **10.5 Break Costs**

- (a) The Borrowers shall, within three Business Days of demand by a Finance Party, pay to that Finance Party its Break Costs attributable to all or any part of the Loan or Unpaid Sum being paid by a Borrower on a day other than the last day of an Interest Period for the Loan, the relevant part of the Loan or that Unpaid Sum.
- (b) Each Lender shall, as soon as reasonably practicable after a demand by the Facility Agent (acting on the instructions of the Lenders), provide a certificate confirming the amount of its Break Costs for any Interest Period in which they accrue.

## **11 FEES**

### **11.1 [Intentionally omitted]**

### **11.2 Prepayment fee**

- (a) Subject to paragraph (c) below, the Borrowers must pay to the Facility Agent for each Lender a prepayment fee on the date of prepayment of all or any part of the Loan.
- (b) The amount of the prepayment fee is:
- (i) if the prepayment occurs on or before the date falling on the first anniversary of the Utilisation Date, 7.01425% of the amount prepaid;
  - (ii) if the prepayment occurs after the date falling on the first but on or before the date falling on the second anniversary of the Utilisation Date, 4.67617% of the amount prepaid;
  - (iii) if the prepayment occurs after the date falling on the second but on or before the date falling on the third anniversary of the Utilisation Date, 2.33808% of the amount prepaid;
  - (iv) if the prepayment occurs after the date falling on the third anniversary of the Utilisation Date, no prepayment fee shall be payable.
- (c) No prepayment fee shall be payable under this Clause if the prepayment is made under Clause 7.1 (*Illegality*), Clause 7.7 (*Right of replacement or repayment and cancellation in relation to a single Lender*) or, only in the event of a Total Loss of a Ship, Clause 7.5 (*Mandatory prepayment on sale or Total loss*).

### **11.3 Other Fees**

Certain other non-refundable fee(s) to the Secured Parties referred to, and in the amount and at the times agreed in any Fee Letter.

## SECTION 6

### ADDITIONAL PAYMENT OBLIGATIONS

#### 12 TAX GROSS UP AND INDEMNITIES

##### 12.1 Definitions

(a) In this Agreement:

**"Protected Party"** means a Finance Party which is or will be subject to any liability, or required to make any payment, for or on account of Tax in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document.

**"Tax Credit"** means a credit against, relief or remission for, or repayment of any Tax.

**"Tax Deduction"** means a deduction or withholding for or on account of Tax from a payment under a Finance Document, other than a FATCA Deduction.

**"Tax Payment"** means either the increase in a payment made by an Obligor to a Finance Party under Clause 12.2 (*Tax gross-up*) or a payment under Clause 12.3 (*Tax indemnity*).

(b) Unless a contrary indication appears, in this Clause 12 (*Tax Gross Up and Indemnities*) reference to "determines" or "determined" means a determination made in the absolute discretion of the person making the determination.

(c) This Clause 12 (*Tax Gross Up and Indemnities*) shall not apply to any Hedging Agreement.

##### 12.2 Tax gross-up

(a) Each Obligor shall make all payments to be made by it without any Tax Deduction, unless a Tax Deduction is required by law.

(b) The Borrowers shall promptly upon becoming aware that an Obligor must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Facility Agent accordingly. Similarly, a Lender shall notify the Facility Agent on becoming so aware in respect of a payment payable to that Lender. If the Facility Agent receives such notification from a Lender it shall notify the Borrowers and that Obligor.

(c) If a Tax Deduction is required by law to be made by an Obligor, the amount of the payment due from that Obligor shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.

(d) If an Obligor is required to make a Tax Deduction, that Obligor shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.

(e) Within 30 days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Obligor making that Tax Deduction shall deliver to the Facility Agent for the Finance Party entitled to the payment evidence reasonably satisfactory to that Finance

Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

### **12.3 Tax indemnity**

- (a) The Obligors shall (within three Business Days of demand by the Facility Agent (acting on the instructions of a Protected Party or claiming on its own behalf)) pay to a Protected Party an amount equal to the loss, liability or cost which that Protected Party determines will be or has been (directly or indirectly) suffered for or on account of Tax by that Protected Party in respect of a Finance Document.
- (b) Paragraph (a) above shall not apply:
  - (i) with respect to any Tax assessed on a Finance Party:
    - (A) under the law of the jurisdiction in which that Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Finance Party is treated as resident for tax purposes; or
    - (B) under the law of the jurisdiction in which that Finance Party's Facility Office is located in respect of amounts received or receivable in that jurisdiction,if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by that Finance Party; or
  - (ii) to the extent a loss, liability or cost:
    - (A) is compensated for by an increased payment under Clause 12.2 (*Tax gross-up*); or
    - (B) relates to a FATCA Deduction required to be made by a Party.
- (c) A Protected Party making, or intending to make, a claim under paragraph (a) above shall promptly notify the Facility Agent of the event which will give, or has given, rise to the claim, following which the Facility Agent shall notify the Obligors.
- (d) A Protected Party shall, on receiving a payment from an Obligor under this Clause 12.3 (*Tax indemnity*), notify the Facility Agent.

### **12.4 Tax Credit**

If an Obligor makes a Tax Payment and the relevant Finance Party determines that:

- (a) a Tax Credit is attributable to an increased payment of which that Tax Payment forms part, to that Tax Payment or to a Tax Deduction in consequence of which that Tax Payment was received; and
- (b) that Finance Party has obtained and utilised that Tax Credit,

the Finance Party shall pay an amount to the Obligor which that Finance Party determines will leave it (after that payment) in the same after-Tax position as it would have been in had the Tax Payment not been required to be made by the Obligor.

## 12.5 Stamp taxes

The Obligors shall pay and, within three Business Days of demand, indemnify each Secured Party against any cost, loss or liability which that Secured Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document.

## 12.6 VAT

- (a) All amounts expressed to be payable under a Finance Document by any Party to a Finance Party which (in whole or in part) constitute the consideration for any supply for VAT purposes are deemed to be exclusive of any VAT which is chargeable on that supply, and accordingly, subject to paragraph (b) below, if VAT is or becomes chargeable on any supply made by any Finance Party to any Party under a Finance Document and such Finance Party is required to account to the relevant tax authority for the VAT, that Party must pay to such Finance Party (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of the VAT (and such Finance Party must promptly provide an appropriate VAT invoice to that Party).
- (b) If VAT is or becomes chargeable on any supply made by any Finance Party (the "**Supplier**") to any other Finance Party (the "**Recipient**") under a Finance Document, and any Party other than the Recipient (the "**Relevant Party**") is required by the terms of any Finance Document to pay an amount equal to the consideration for that supply to the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):
- (i) (where the Supplier is the person required to account to the relevant tax authority for the VAT) the Relevant Party must also pay to the Supplier (at the same time as paying that amount) an additional amount equal to the amount of the VAT. The Recipient must (where this sub-paragraph (i) applies) promptly pay to the Relevant Party an amount equal to any credit or repayment the Recipient receives from the relevant tax authority which the Recipient reasonably determines relates to the VAT chargeable on that supply; and
  - (ii) (where the Recipient is the person required to account to the relevant tax authority for the VAT) the Relevant Party must promptly, following demand from the Recipient, pay to the Recipient an amount equal to the VAT chargeable on that supply but only to the extent that the Recipient reasonably determines that it is not entitled to credit or repayment from the relevant tax authority in respect of that VAT.
- (c) Where a Finance Document requires any Party to reimburse or indemnify a Finance Party for any cost or expense, that Party shall reimburse or indemnify (as the case may be) such Finance Party for the full amount of such cost or expense, including such part of it as represents VAT, save to the extent that such Finance Party reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority.
- (d) Any reference in this Clause 12.6 (VAT) to any Party shall, at any time when that Party is treated as a member of a group or unity (or fiscal unity) for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the person who is treated at that time as making the supply, or (as appropriate) receiving the supply, under the grouping rules (provided for in Article 11 of Council Directive 2006/112/EC (or as implemented by the relevant member state of the European Union)) so that a reference to a Party shall be construed as a reference to that Party or the relevant group or unity (or fiscal unity) of which that Party is a



member for VAT purposes at the relevant time or the relevant representative member (or representative or head) of that group or unity at the relevant time (as the case may be).

- (e) In relation to any supply made by a Finance Party to any Party under a Finance Document, if reasonably requested by such Finance Party, that Party must promptly provide such Finance Party with details of that Party's VAT registration and such other information as is reasonably requested in connection with such Finance Party's VAT reporting requirements in relation to such supply.

## **12.7 FATCA Information**

- (a) Subject to paragraph (c) below, each Party shall, within ten Business Days of a reasonable request by another Party:
  - (i) confirm to that other Party whether it is:
    - (A) a FATCA Exempt Party; or
    - (B) not a FATCA Exempt Party; and
  - (ii) supply to that other Party such forms, documentation and other information relating to its status under FATCA as that other Party reasonably requests for the purposes of that other Party's compliance with FATCA; and
  - (iii) supply to that other Party such forms, documentation and other information relating to its status as that other Party reasonably requests for the purposes of that other Party's compliance with any other law, regulation or exchange of information regime.
- (b) If a Party confirms to another Party pursuant to sub-paragraph (i) of paragraph (a) above that it is a FATCA Exempt Party and it subsequently becomes aware that it is not, or has ceased to be a FATCA Exempt Party, that Party shall notify that other Party reasonably promptly.
- (c) Paragraph (a) above shall not oblige any Finance Party to do anything and sub-paragraph (iii) of paragraph (a) above shall not oblige any other Party to do anything which would or might in its reasonable opinion constitute a breach of:
  - (i) any law or regulation;
  - (ii) any fiduciary duty; or
  - (iii) any duty of confidentiality.
- (d) If a Party fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with sub-paragraphs (i) or (ii) of paragraph (a) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.
- (e) If a Borrower is a US Tax Obligor, or the Facility Agent reasonably believes that its obligations under FATCA or any other applicable law or regulation require it, each Lender shall, within ten Business Days of:

- (i) where a Borrower is a US Tax Obligor and the relevant Lender is an Original Lender, the date of this Agreement;
- (ii) where a Borrower is a US Tax Obligor on a Transfer Date and the relevant Lender is a New Lender, the relevant Transfer Date; or
- (iii) where a Borrower is not a US Tax Obligor, the date of a request from the Facility Agent,

supply to the Facility Agent:

- (i) a withholding certificate on Form W-8, Form W-9 or any other relevant form; or
  - (ii) any withholding statement or other document, authorisation or waiver as the Facility Agent may require to certify or establish the status of such Lender under FATCA or that other law or regulation.
- (f) The Facility Agent shall provide any withholding certificate, withholding statement, document, authorisation or waiver it receives from a Lender pursuant to paragraph (d) above to the Borrowers.
  - (g) If any withholding certificate, withholding statement, document, authorisation or waiver provided to the Facility Agent by a Lender pursuant to paragraph (d) above is or becomes materially inaccurate or incomplete, that Lender shall promptly update it and provide such updated withholding certificate, withholding statement, document, authorisation or waiver to the Facility Agent unless it is unlawful for the Lender to do so (in which case the Lender shall promptly notify the Facility Agent). The Facility Agent shall provide any such updated withholding certificate, withholding statement, document, authorisation or waiver to the Borrowers.
  - (h) The Facility Agent may rely on any withholding certificate, withholding statement, document, authorisation or waiver it receives from a Lender pursuant to paragraph (d) or (f) above without further verification. The Facility Agent shall not be liable for any action taken by it under or in connection with paragraphs (d), (f) or (f) above.

## **12.8 FATCA Deduction**

- (a) Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.
- (b) Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction), notify the Party to whom it is making the payment and, in addition, shall notify each Obligor and the Facility Agent and the Facility Agent shall notify the other Finance Parties.

## **13 INCREASED COSTS**

### **13.1 Increased costs**

- (a) Subject to Clause 13.3 (*Exceptions*), the Borrowers shall, within three Business Days of a demand by the Facility Agent (acting on the instructions of a Lender or claiming on its own behalf), pay for the account of a Finance Party the amount of any Increased Costs incurred by that Finance Party or any of its Affiliates as a result of:

- (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation; or
- (ii) compliance with any law or regulation made,

in each case after the date of this Agreement; or

- (iii) the implementation, application of or compliance with Basel III or CRD IV or any law or regulation that implements or applies Basel III or CRD IV.

(b) In this Agreement:

(i) **"Basel III"** means:

- (A) the agreements on capital requirements, a leverage ratio and liquidity standards contained in "Basel III: A global regulatory framework for more resilient banks and banking systems", "Basel III: International framework for liquidity risk measurement, standards and monitoring" and "Guidance for national authorities operating the countercyclical capital buffer" published by the Basel Committee on Banking Supervision in December 2010, each as amended, supplemented or restated;
- (B) the rules for global systemically important banks contained in "Global systemically important banks: assessment methodology and the additional loss absorbency requirement - Rules text" published by the Basel Committee on Banking Supervision in November 2011, as amended, supplemented or restated; and
- (C) any further guidance or standards published by the Basel Committee on Banking Supervision relating to "Basel III".

(ii) **"CRD IV"** means:

- (A) Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending regulation (EU) No. 648/2012;
- (B) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC; and
- (C) any other law or regulation which implements Basel III.

(iii) **"Increased Costs"** means:

- (A) a reduction in the rate of return from the Facility or on a Finance Party's (or its Affiliate's) overall capital;
- (B) an additional or increased cost; or
- (C) a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by a Finance Party or any of its Affiliates to the extent that it is attributable to that Finance Party having entered into its Commitment or funding or performing its obligations under any Finance Document.

### **13.2 Increased cost claims**

- (a) A Finance Party intending to make a claim pursuant to Clause 13.1 (*Increased costs*) shall notify the Facility Agent of the event giving rise to the claim together with the amount of such claim, following which the Facility Agent shall promptly notify the Borrowers.
- (b) Each Finance Party shall, as soon as practicable after a demand by the Facility Agent (acting on the instructions of the Majority Lenders), provide a certificate confirming the amount of its Increased Costs.

### **13.3 Exceptions**

Clause 13.1 (*Increased costs*) does not apply to the extent any Increased Cost is:

- (a) attributable to a Tax Deduction required by law to be made by an Obligor;
- (b) attributable to a FATCA Deduction required to be made by a Party;
- (c) compensated for by Clause 12.3 (*Tax indemnity*) (or would have been compensated for under Clause 12.3 (*Tax indemnity*) but was not so compensated solely because any of the exclusions in paragraph (b) of Clause 12.3 (*Tax indemnity*) applied);
- (d) compensated for by any payment made pursuant to Clause 14.3 (*Mandatory Cost*);
- (e) attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation; or
- (f) incurred by a Hedge Counterparty in its capacity as such.

## **14 OTHER INDEMNITIES**

### **14.1 Currency indemnity**

- (a) If any sum due from an Obligor under the Finance Documents (a "**Sum**"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "**First Currency**") in which that Sum is payable into another currency (the "**Second Currency**") for the purpose of:
  - (i) making or filing a claim or proof against that Obligor; or
  - (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

that Obligor shall, as an independent obligation, on demand, indemnify each Secured Party to which that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

- (b) Each Obligor waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.
- (c) This Clause 14.1 (*Currency indemnity*) does not apply to any sum due to a Hedge Counterparty in its capacity as such.

#### **14.2 Other indemnities**

- (a) Each Obligor shall, on demand, indemnify each Secured Party against any cost, loss or liability incurred by it (acting reasonably) as a result of:
  - (i) the occurrence of any Event of Default;
  - (ii) a failure by a Transaction Obligor to pay any amount due under a Finance Document on its due date, including without limitation, any cost, loss or liability arising as a result of Clause 34 (*Sharing among the Finance Parties*);
  - (iii) funding, or making arrangements to fund, its participation in the Loan but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by that Secured Party alone); or
  - (iv) the Loan (or part of the Loan) not being prepaid in accordance with a notice of prepayment given by the Borrowers.
- (b) Each Obligor shall, on demand, indemnify each Finance Party, each Indemnified Person, against any cost, loss or liability incurred by that Indemnified Person pursuant to or in connection with any litigation, arbitration or administrative proceedings or regulatory enquiry, in connection with or arising out of the entry into and the transactions contemplated by the Finance Documents, having the benefit of any Security constituted by the Finance Documents or which relates to the condition or operation of, or any incident occurring in relation to, any Ship unless such cost, loss or liability is caused by the gross negligence or wilful misconduct of that Indemnified Person.
- (c) Without limiting, but subject to any limitations set out in paragraph (b) above, the indemnity in paragraph (b) above shall cover any cost, loss or liability incurred by each Indemnified Person in any jurisdiction:
  - (i) arising or asserted under or in connection with any law relating to safety at sea, the ISM Code, any Environmental Law or any Sanctions; or
  - (ii) in connection with any Environmental Claim.
- (d) Any Affiliate or any officer or employee of a Finance Party or of any of its Affiliates may rely on this Clause 14.2 (*Other indemnities*) subject to Clause 1.5 (*Third party rights*) and the provisions of the Third Parties Act.

#### **14.3 Mandatory Cost**

Each Borrower shall, on demand by the Facility Agent (acting on the instructions of the Majority Lenders), pay to the Facility Agent for the account of the relevant Lender, such

amount which any Lender certifies in a notice to the Facility Agent to be its good faith determination of the amount necessary to compensate it for complying with:

- (a) in the case of a Lender lending from a Facility Office in a Participating Member State, the minimum reserve requirements (or other requirements having the same or similar purpose) of the European Central Bank or any other authority or agency which replaces all or any of its functions in respect of loans made from that Facility Office; and
- (b) in the case of any Lender lending from a Facility Office in the United Kingdom, any reserve asset, special deposit or liquidity requirements (or other requirements having the same or similar purpose) of the Bank of England (or any other governmental authority or agency) and/or paying any fees to the Financial Conduct Authority and/or the Prudential Regulation Authority (or any other governmental authority or agency which replaces all or any of their functions),

which, in each case, is referable to that Lender's participation in the Loan.

#### **14.4 Indemnity to the Facility Agent**

Each Obligor shall, on demand, indemnify each Indemnified Person against:

- (a) any cost, loss or liability incurred by the Facility Agent (acting reasonably) as a result of:
  - (i) investigating (acting on the instructions of the Majority Lenders) any event which the Majority Lenders reasonably believe is a Default; or
  - (ii) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised; or
  - (iii) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under the Finance Documents or as may be required by the Majority Lenders; and
- (b) any cost, loss or liability incurred by the Indemnified Person (otherwise than by reason of the Indemnified Person's gross negligence or wilful misconduct) or, in the case of any cost, loss or liability pursuant to Clause 35.11 (*Disruption to Payment Systems etc.*), notwithstanding the Indemnified Person's negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Facility Agent in acting as Facility Agent under the Finance Documents.

#### **14.5 [Intentionally omitted]**

### **15 MITIGATION BY THE FINANCE PARTIES**

#### **15.1 Mitigation**

- (a) Each Finance Party shall, in consultation with the Borrowers, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 7.1 (*Illegality*), Clause 12 (*Tax Gross Up and Indemnities*), Clause 13 (*Increased Costs*) or paragraph (a) of Clause 14.3 (*Mandatory Cost*) including (but not limited to) transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office.

- (b) Paragraph (a) above does not in any way limit the obligations of any Transaction Obligor under the Finance Documents.

## **15.2 Limitation of liability**

- (a) Each Obligor shall, on demand, indemnify each Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of steps taken by it under Clause 15.1 (*Mitigation*).
- (b) A Finance Party is not obliged to take any steps under Clause 15.1 (*Mitigation*) if either:
  - (i) a Default has occurred and is continuing; or
  - (ii) in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.

## **16 COSTS AND EXPENSES**

### **16.1 Transaction expenses**

The Obligors shall, promptly on demand, pay the Facility Agent and the Arranger the amount of all costs and expenses (including legal fees) reasonably incurred and documented by any Secured Party in connection with the negotiation, preparation, printing, execution, syndication and perfection of:

- (a) this Agreement and any other documents referred to in this Agreement or in a Security Document; and
- (b) any other Finance Documents executed after the date of this Agreement.

### **16.2 Amendment costs**

If:

- (a) a Transaction Obligor requests an amendment, waiver or consent; or
- (b) an amendment is required either pursuant to Clause 35.9 (*Change of currency*) or as contemplated in Clause 44.4 (*Replacement of Screen Rate*); or
- (c) a Transaction Obligor requests, and the Security Agent (acting on the instructions of the Majority Lenders) agrees to, the release of all or any part of the Security Assets from the Transaction Security,

the Obligors shall, on demand, reimburse each of the Facility Agent and the Security Agent for the amount of all costs and expenses (including legal fees) reasonably incurred and documented by each Secured Party in responding to, evaluating, negotiating or complying with that request or requirement.

### **16.3 Enforcement and preservation costs**

The Obligors shall, on demand, pay to each Secured Party the amount of all costs and expenses (including legal fees) incurred by that Secured Party in connection with the enforcement of, or

the preservation of any rights under, any Finance Document and/or the Transaction Security and with any proceedings instituted by or against that Secured Party as a consequence of it entering into a Finance Document, taking or holding the Transaction Security, or enforcing those rights.



## SECTION 7

### GUARANTEES AND JOINT AND SEVERAL LIABILITY OF BORROWERS

#### 17 GUARANTEE AND INDEMNITY

##### 17.1 Guarantee and indemnity

Each Guarantor irrevocably and unconditionally:

- (a) guarantees to each Finance Party punctual performance by each other Transaction Obligor of all such other Transaction Obligor's obligations under the Finance Documents;
- (b) undertakes with each Finance Party that whenever another Transaction Obligor does not pay any amount when due under or in connection with any Finance Document, that Guarantor shall immediately on demand pay that amount as if it were the principal obligor; and
- (c) agrees with each Finance Party that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify that Finance Party immediately on demand against any cost, loss or liability it incurs as a result of another Transaction Obligor not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under any Finance Document on the date when it would have been due. The amount payable by a Guarantor under this indemnity will not exceed the amount it would have had to pay under this Clause 17 (*Guarantee and Indemnity*) if the amount claimed had been recoverable on the basis of a guarantee.

##### 17.2 Continuing guarantee

This guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by any Transaction Obligor under the Finance Documents, regardless of any intermediate payment or discharge in whole or in part.

##### 17.3 Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of any Transaction Obligor or any security for those obligations or otherwise) is made by a Secured Party in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of a Guarantor under this Clause 17 (*Guarantee and Indemnity*) will continue or be reinstated as if the discharge, release or arrangement had not occurred.

##### 17.4 Waiver of defences

The obligations of the Guarantors under this Clause 17 (*Guarantee and Indemnity*) and in respect of any Transaction Security will not be affected or discharged by an act, omission, matter or thing which, but for this Clause 17.4 (*Waiver of defences*), would reduce, release or prejudice any of its obligations under this Clause 17 (*Guarantee and Indemnity*) or in respect of any Transaction Security (without limitation and whether or not known to it or any Secured Party) including:

- (a) any time, waiver or consent granted to, or composition with, any Transaction Obligor or other person;
- (b) the release of any other Transaction Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect or delay in perfecting, or refusal or neglect to take up or enforce, or delay in taking or enforcing any rights against, or security over assets of, any Transaction Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of a Transaction Obligor or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Finance Document or any other document or security including, without limitation, any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security; or
- (g) any insolvency or similar proceedings.

#### **17.5 Immediate recourse**

- (a) Each of the Guarantors waives any right they may have of first requiring any Secured Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person (including without limitation to commence any proceedings under any Finance Document or to enforce any Transaction Security) before claiming or commencing proceedings under this Clause 17 (*Guarantee and Indemnity*). This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.
- (b) Each of the Guarantors acknowledges the right of the Security Agent pursuant to Clause 28.19 (*Acceleration*) to enforce or exercise any or all of its rights, remedies powers or discretions under any guarantee or indemnity contained in this Agreement.

#### **17.6 Appropriations**

Until all amounts which may be or become payable by the Transaction Obligors under or in connection with the Finance Documents have been irrevocably paid in full, each Secured Party (or any trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by that Secured Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Guarantors shall not be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any moneys received from the Guarantors or on account of any Guarantor's liability under this Clause 17 (*Guarantee and Indemnity*).

### **17.7 Deferral of Guarantors' rights**

All rights which the Guarantors at any time have (whether in respect of this guarantee, a mortgage or any other transaction) against any Borrower, any other Transaction Obligor or their respective assets shall be fully subordinated to the rights of the Secured Parties under the Finance Documents and until the end of the Security Period and unless the Facility Agent (acting on the instructions of the Lenders) otherwise directs, the Guarantors will not exercise any rights which they may have (whether in respect of any Finance Document to which they are a Party or any other transaction) by reason of performance by the Guarantors of their obligations under the Finance Documents or by reason of any amount being payable, or liability arising, under this Clause 17 (*Guarantee and Indemnity*):

- (a) to be indemnified by a Transaction Obligor;
- (b) to claim any contribution from any third party providing security for, or any other guarantor of, any Transaction Obligor's obligations under the Finance Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Secured Party;
- (d) to bring legal or other proceedings for an order requiring any Transaction Obligor to make any payment, or perform any obligation, in respect of which the Guarantors have given a guarantee, undertaking or indemnity under Clause 17.1 (*Guarantee and indemnity*);
- (e) to exercise any right of set-off against any Transaction Obligor; and/or
- (f) to claim or prove as a creditor of any Transaction Obligor in competition with any Secured Party.

If the Guarantors receive any benefit, payment or distribution in relation to such rights they shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Secured Parties by the Transaction Obligors under or in connection with the Finance Documents to be repaid in full on trust for the Secured Parties and shall promptly pay or transfer the same to the Facility Agent or as the Facility Agent (acting on the instructions of the Lenders) may direct for application in accordance with Clause 35 (*Payment Mechanics*).

### **17.8 Additional security**

This guarantee and any other Security given by the Guarantors is in addition to and is not in any way prejudiced by, and shall not prejudice, any other guarantee or Security or any other right of recourse now or subsequently held by any Secured Party or any right of set-off or netting or right to combine accounts in connection with the Finance Documents.

### **17.9 Applicability of provisions of Guarantee to other Security**

Clauses 17.2 (*Continuing guarantee*), 17.3 (*Reinstatement*), 17.4 (*Waiver of defences*), 17.5 (*Immediate recourse*), 17.6 (*Appropriations*), 17.7 (*Deferral of Guarantors' rights*) and 17.8 (*Additional security*) shall apply, with any necessary modifications, to any Security which a

Guarantor creates (whether at the time at which it signs this Agreement or at any later time) to secure the Secured Liabilities or any part of them.

## **18 JOINT AND SEVERAL LIABILITY OF THE BORROWERS**

### **18.1 Joint and several liability**

All liabilities and obligations of the Borrowers under this Agreement shall, whether expressed to be so or not, be joint and several.

### **18.2 Waiver of defences**

The liabilities and obligations of a Borrower shall not be impaired by:

- (a) this Agreement being or later becoming void, unenforceable or illegal as regards any other Borrower;
- (b) any Lender or the Security Agent entering into any rescheduling, refinancing or other arrangement of any kind with any other Borrower;
- (c) any Lender or the Security Agent releasing any other Borrower or any Security created by a Finance Document; or
- (d) any time, waiver or consent granted to, or composition with any other Borrower or other person;
- (e) the release of any other Borrower or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (f) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any other Borrower or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (g) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any other Borrower or any other person;
- (h) any amendment, novation, supplement, extension, restatement (however fundamental, and whether or not more onerous) or replacement of a Finance Document or any other document or security including, without limitation, any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or security;
- (i) any unenforceability, illegality or invalidity of any obligation or any person under any Finance Document or any other document or security; or
- (j) any insolvency or similar proceedings.

### **18.3 Principal Debtor**

Each Borrower declares that it is and will, throughout the Security Period, remain a principal debtor for all amounts owing under this Agreement and the Finance Documents and no

Borrower shall, in any circumstances, be construed to be a surety for the obligations of any other Borrower under this Agreement.

#### **18.4 Borrower restrictions**

- (a) Subject to paragraph (b) below, during the Security Period no Borrower shall:
- (i) claim any amount which may be due to it from any other Borrower whether in respect of a payment made under, or matter arising out of, this Agreement or any Finance Document, or any matter unconnected with this Agreement or any Finance Document; or
  - (ii) take or enforce any form of security from any other Borrower for such an amount, or in any way seek to have recourse in respect of such an amount against any asset of any other Borrower; or
  - (iii) set off such an amount against any sum due from it to any other Borrower; or
  - (iv) prove or claim for such an amount in any liquidation, administration, arrangement or similar procedure involving any other Borrower; or
  - (v) exercise or assert any combination of the foregoing.
- (b) If during the Security Period, the Facility Agent, by notice to a Borrower, requires it to take any action referred to in paragraph (a) above in relation to any other Borrower, that Borrower shall take that action as soon as practicable after receiving the Facility Agent's notice.

#### **18.5 Deferral of Borrowers' rights**

Until all amounts which may be or become payable by the Borrowers under or in connection with the Finance Documents have been irrevocably paid in full and unless the Facility Agent otherwise directs, no Borrower will exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents:

- (a) to be indemnified by any other Borrower; or
- (b) to claim any contribution from any other Borrower in relation to any payment made by it under the Finance Documents.

### **19 GUARANTEE AND INDEMNITY – HEDGE GUARANTORS**

#### **19.1 Guarantee and indemnity**

Each Hedge Guarantor irrevocably and unconditionally jointly and severally:

- (a) guarantees to each Hedge Counterparty punctual performance by each Borrower of all that Borrower's obligations under the Hedging Agreements;
- (b) undertakes with each Hedge Counterparty that whenever a Borrower does not pay any amount when due under or in connection with any Hedging Agreement, that Hedge Guarantor shall immediately on demand pay that amount as if it were the principal obligor; and

- (c) agrees with each Hedge Counterparty that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify that Hedge Counterparty immediately on demand against any cost, loss or liability it incurs as a result of a Borrower not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under any Hedging Agreement on the date when it would have been due. The amount payable by a Hedge Guarantor under this indemnity will not exceed the amount it would have had to pay under this Clause 19 (*Guarantee and Indemnity – Hedge Guarantors*) if the amount claimed had been recoverable on the basis of a guarantee.

#### **19.2 Continuing guarantee**

This guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by any Borrower under the Hedging Agreements, regardless of any intermediate payment or discharge in whole or in part.

#### **19.3 Reinstatement**

If any discharge, release or arrangement (whether in respect of the obligations of any Borrower or any security for those obligations or otherwise) is made by a Secured Party in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of each Hedge Guarantor under this Clause 19 (*Guarantee and Indemnity – Hedge Guarantors*) will continue or be reinstated as if the discharge, release or arrangement had not occurred.

#### **19.4 Waiver of defences**

The obligations of each Hedge Guarantor under this Clause 19 (*Guarantee and Indemnity – Hedge Guarantors*) and in respect of any Transaction Security will not be affected or discharged by an act, omission, matter or thing which, but for this Clause 19.4 (*Waiver of defences*), would reduce, release or prejudice any of its obligations under this Clause 19 (*Guarantee and Indemnity – Hedge Guarantors*) or in respect of any Transaction Security (without limitation and whether or not known to it or any Secured Party) including:

- (a) any time, waiver or consent granted to, or composition with, any Transaction Obligor or other person;
- (b) the release of any other Transaction Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect or delay in perfecting, or refusal or neglect to take up or enforce, or delay in taking or enforcing any rights against, or security over assets of, any Transaction Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of a Transaction Obligor or any other person;

- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Finance Document or any other document or security including, without limitation, any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security; or
- (g) any insolvency or similar proceedings.

#### **19.5 Immediate recourse**

Each Hedge Guarantor waives any right it may have of first requiring any Secured Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person (including without limitation to commence any proceedings under any Finance Document or to enforce any Transaction Security) before claiming or commencing proceedings under this Clause 19 (*Guarantee and Indemnity – Hedge Guarantors*). This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

#### **19.6 Appropriations**

Until all amounts which may be or become payable by the Borrowers under or in connection with the Hedging Agreements have been irrevocably paid in full, each Secured Party (or any trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by that Secured Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Hedge Guarantor shall be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any moneys received from any Hedge Guarantor or on account of any Hedge Guarantor's liability under this Clause 19 (*Guarantee and Indemnity – Hedge Guarantors*).

#### **19.7 Deferral of Hedge Guarantors' rights**

All rights which each Hedge Guarantor at any time has (whether in respect of this guarantee, a mortgage or any other transaction) against any Borrower, any other Transaction Obligor or their respective assets shall be fully subordinated to the rights of the Secured Parties under the Finance Documents and until the end of the Security Period and unless the Facility Agent otherwise directs, no Hedge Guarantor will exercise any rights which it may have (whether in respect of any Finance Document to which it is a Party or any other transaction) by reason of performance by it of its obligations under the Finance Documents or by reason of any amount being payable, or liability arising, under this Clause 19 (*Guarantee and Indemnity – Hedge Guarantors*):

- (a) to be indemnified by a Transaction Obligor;

- (b) to claim any contribution from any third party providing security for, or any other guarantor of, any Transaction Obligor's obligations under the Finance Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Secured Party;
- (d) to bring legal or other proceedings for an order requiring any Transaction Obligor to make any payment, or perform any obligation, in respect of which any Hedge Guarantor has given a guarantee, undertaking or indemnity under Clause 19 (*Guarantee and Indemnity – Hedge Guarantors*);
- (e) to exercise any right of set-off against any Transaction Obligor; and/or
- (f) to claim or prove as a creditor of any Transaction Obligor in competition with any Secured Party.

If a Hedge Guarantor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Secured Parties by the Transaction Obligors under or in connection with the Finance Documents to be repaid in full on trust for the Secured Parties and shall promptly pay or transfer the same to the Facility Agent or as the Facility Agent may direct for application in accordance with Clause 35 (*Payment Mechanics*).

#### **19.8 Additional security**

This guarantee and any other Security given by a Hedge Guarantor is in addition to and is not in any way prejudiced by, and shall not prejudice, any other guarantee or Security or any other right of recourse now or subsequently held by any Secured Party or any right of set-off or netting or right to combine accounts in connection with the Finance Documents.

#### **19.9 Applicability of provisions of Guarantee to other Security**

Clauses 19.2 (*Continuing guarantee*), 19.3 (*Reinstatement*), 19.4 (*Waiver of defences*), 19.5 (*Immediate recourse*), 19.6 (*Appropriations*), 19.7 (*Deferral of Hedge Guarantors' rights*) and 19.8 (*Additional security*) shall apply, with any necessary modifications, to any Security which a Hedge Guarantor creates (whether at the time at which it signs this Agreement or at any later time) to secure the Secured Liabilities or any part of them.



## SECTION 8

### REPRESENTATIONS, UNDERTAKINGS AND EVENTS OF DEFAULT

#### 20 REPRESENTATIONS

##### 20.1 General

Each Obligor makes the representations and warranties set out in this Clause 20 (*Representations*) to each Finance Party on the date of this Agreement.

##### 20.2 Status

- (a) It is a limited liability company, duly formed and validly existing in good standing under the law of its Original Jurisdiction.
- (b) It and each Transaction Obligor has the power to own its assets and carry on its business as it is being conducted.

##### 20.3 LLC Shares and ownership

- (a) In the case of Borrower A, the aggregate number of limited liability company interests that it is authorised to issue is 500 LLC Shares, all of which (being 100 per cent. of its limited liability company interests) have been issued to Odysia NB.
- (b) In the case of Borrower B, the aggregate number of limited liability company interests that it is authorised to issue is 500 LLC Shares, all of which (being 100 per cent. of its limited liability company interests) have been issued to Odysia NB.
- (c) In the case of Borrower C, the aggregate number of limited liability company interests that it is authorised to issue is 500 LLC Shares (being 100 per cent. of its issued limited liability company interests), all of which have been issued to Odysia NB.
- (d) In the case of Odysia NB, the aggregate number of limited liability company interests that it is authorised to issue is 500 LLC Shares, all of which have been issued to Guarantor B.
- (e) In the case of the Guarantor A, the aggregate number of limited liability company interests that it is authorised to issue is 100, all of which have been issued to GSL Rome LLC, a Marshall Islands limited liability company.
- (f) In the case of the Guarantor B, the aggregate number of limited liability company interests that it is authorised to issue is 100, consisting of 75 Class A common limited liability company interests and 25 Class B preferential limited liability company interests, all of which have been issued to Guarantor C.
- (g) In the case of the Guarantor C, the aggregate number of limited liability company interests that it is authorised to issue is 100, all of which have been issued to Guarantor A.
- (h) [Intentionally omitted].
- (i) None of the LLC Shares in any Borrower are subject to any option to purchase, pre-emption rights or similar rights.

#### **20.4 Binding obligations**

Subject to the Legal Reservations, the obligations expressed to be assumed by it in each Transaction Document to which it is a party are legal, valid, binding and enforceable obligations.

#### **20.5 Validity, effectiveness and ranking of Security**

- (a) Each Finance Document to which it is a party does now or, as the case may be, will upon execution and delivery create, subject to the Legal Reservations and the Perfection Requirements, the Security it purports to create over any assets to which such Security, by its terms, relates, and such Security will, when created or intended to be created, be valid and effective.
- (b) No third party has or will have any Security (except for Permitted Security) over any assets that are the subject of any Transaction Security granted by it.
- (c) Subject to the Legal Reservations and the Perfection Requirements, the Transaction Security granted by it to the Security Agent or any other Secured Party has or will when created or intended to be created have first ranking priority or such other priority it is expressed to have in the Finance Documents and is not subject to any prior ranking or *pari passu* ranking security.
- (d) No concurrence, consent or authorisation of any person is required for the creation of or otherwise in connection with any Transaction Security.

#### **20.6 Non-conflict with other obligations**

The entry into and performance by it of, and the transactions contemplated by, each Transaction Document to which it is a party do not and will not conflict with:

- (a) any law or regulation applicable to it;
- (b) its constitutional documents; or
- (c) any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument.

#### **20.7 Power and authority**

- (a) It has the power to enter into, perform and deliver, and has taken all necessary action to authorise:
  - (i) its entry into, performance and delivery of, each Transaction Document to which it is or will be a party and the transactions contemplated by those Transaction Documents; and
  - (ii) in the case of a Borrower, its registration of its Ship under an Approved Flag;
- (b) No limit on its powers will be exceeded as a result of the borrowing, granting of security or giving of guarantees or indemnities contemplated by the Transaction Documents to which it is a party.

## **20.8 Validity and admissibility in evidence**

All Authorisations required or desirable:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Transaction Documents to which it is a party; and
- (b) to make the Transaction Documents to which it is a party admissible in evidence in its Relevant Jurisdictions, have been obtained or effected and are in full force and effect.

## **20.9 Governing law and enforcement**

- (a) Subject to the Legal Reservations, the choice of governing law of each Transaction Document to which it is a party will be recognised and enforced in its Relevant Jurisdictions.
- (b) Subject to the Legal Reservations, any judgment obtained in relation to a Transaction Document to which it is a party in the jurisdiction of the governing law of that Transaction Document will be recognised and enforced in its Relevant Jurisdictions.

## **20.10 Insolvency**

No:

- (a) corporate action, legal proceeding or other procedure or step described in paragraph (a) of Clause 28.8 (*Insolvency proceedings*); or
  - (b) creditors' process described in Clause 28.9 (*Creditors' process*),
- has been taken or, to its knowledge, threatened in relation to a member of the Group or an Approved Manager; and none of the circumstances described in Clause 28.7 (*Insolvency*) applies to a member of the Group or an Approved Manager.

## **20.11 No filing or stamp taxes**

Under the laws of its Relevant Jurisdictions it is not necessary that the Finance Documents to which it is a party be registered, filed, recorded, notarised or enrolled with any court or other authority in that jurisdiction or that any stamp, registration, notarial or similar Taxes or fees be paid on or in relation to the Finance Documents to which it is a party or the transactions contemplated by those Finance Documents.

## **20.12 Deduction of Tax**

It is not required to make any Tax Deduction from any payment it may make under any Finance Document to which it is a party.

## **20.13 No default**

- (a) No Event of Default and, on the date of this Agreement and on the Utilisation Date, no Default is continuing or might reasonably be expected to result from the making of the Utilisation or

the entry into, the performance of, or any transaction contemplated by, any Transaction Document.

- (b) No other event or circumstance is outstanding which constitutes a default or a termination event (however described) under any other agreement or instrument which is binding on it or any of its Subsidiaries or to which its (or any of its Subsidiaries') assets are subject.

#### **20.14 No misleading information**

- (a) Any factual information provided by any member of the Group for the purposes of this Agreement was true and accurate in all material respects as at the date it was provided or as at the date (if any) at which it is stated.
- (b) The financial projections contained in any such information have been prepared on the basis of recent historical information and on the basis of reasonable assumptions.
- (c) Nothing has occurred or been omitted from any such information and no information has been given or withheld that results in any such information being untrue or misleading in any material respect.

#### **20.15 Financial Statements**

- (a) Each Obligor's (excluding Guarantor C) Original Financial Statements were prepared in accordance with GAAP consistently applied.
- (b) Each Obligor's (excluding Guarantor C) Original Financial Statements fairly present its financial condition as at the end of the relevant financial year and results of operations during the relevant financial year (consolidated in the case of the Guarantors).
- (c) There has been no material adverse change in its assets, business or financial condition or the assets, business or consolidated financial condition of the Group since 31 December 2017.
- (d) Each Obligor's (excluding Guarantor C) most recent financial statements delivered pursuant to Clause 21.2 (*Financial statements*):
  - (i) have been prepared in accordance with Clause 21.4 (*Requirements as to financial statements*); and
  - (ii) fairly represent its financial condition as at the end of the relevant financial year and operations during the relevant financial year (consolidated in the case of the Guarantors).
- (e) Since the date of the most recent financial statements delivered pursuant to Clause 21.2 (*Financial statements*) there has been no material adverse change in its business, assets or financial condition (or the business or consolidated financial condition of the Group, in the case of the Guarantors).

#### **20.16 Pari passu ranking**

Its payment obligations under the Finance Documents to which it is a party rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

#### **20.17 No proceedings pending or threatened**

- (a) No litigation, arbitration or administrative proceedings or investigations (including proceedings or investigations relating to any alleged or actual breach of the ISM Code or of the ISPS Code) of or before any court, arbitral body or agency, which, if adversely determined, might reasonably be expected to have a Material Adverse Effect, have (to the best of its knowledge and belief (having made due and careful enquiry)) been started or threatened against it, any other Transaction Obligor or any member of the Group.
- (b) No judgment or order of a court, arbitral tribunal or other tribunal or any order or sanction of any governmental or other regulatory body which might reasonably be expected to have a Material Adverse Effect has (to the best of its knowledge and belief (having made due and careful enquiry)) been made against it, any other Transaction Obligor or any member of the Group.

#### **20.18 Valuations**

- (a) All written information supplied by it or on its behalf to an Approved Valuer for the purposes of a valuation delivered to the Facility Agent in accordance with this Agreement was true and accurate as at the date it was supplied or (if appropriate) as at the date (if any) at which it is stated to be given.
- (b) It has not omitted to supply any information to an Approved Valuer which, if disclosed, would adversely affect any valuation prepared by such Approved Valuer.
- (c) There has been no change to the written factual information provided pursuant to paragraph (a) above in relation to any valuation between the date such information was provided and the date of that valuation which, in either case, renders that information untrue or misleading in any material respect.

#### **20.19 No breach of laws**

- (a) It and any other Transaction Obligor has not (and no other member of the Group has) breached any law or regulation which breach has or is reasonably likely to have a Material Adverse Effect.
- (b) No Transaction Obligor is in violation of and nor shall it violate any of the country or list based economic and trade sanctions administered and enforced by OFAC that are described or referenced at <http://ustreas.gov/offices/enforcement/ofac> or as otherwise published from time to time, in each case, as applicable to it.

#### **20.20 No Charter**

Except as disclosed by a Borrower to the Facility Agent in writing on or before the date of this Agreement, no Ship is subject to any Charter other than a Permitted Charter.

#### **20.21 Compliance with Environmental Laws**

All Environmental Laws relating to the ownership, operation and management of each Ship and the business of each member of the Group and any Approved Manager (as now conducted and as reasonably anticipated to be conducted in the future) and the terms of all Environmental Approvals have been complied with.

**20.22 No Environmental Claim**

No Environmental Claim has been made or threatened against any member of the Group or any Ship.

**20.23 No Environmental Incident**

No Environmental Incident has occurred and no person has claimed that an Environmental Incident has occurred.

**20.24 ISM and ISPS Code compliance**

All requirements of the ISM Code and the ISPS Code as they relate to each Borrower, the Approved Technical Manager and each Ship have been complied with.

**20.25 Taxes paid**

- (a) It is not materially overdue in the filing of any Tax returns and it is not overdue in the payment of any amount in respect of Tax.
- (b) No claims or investigations are being, or are reasonably likely to be, made or conducted against it with respect to Taxes.

**20.26 Financial Indebtedness**

No Borrower has any Financial Indebtedness outstanding other than Permitted Financial Indebtedness.

**20.27 Overseas companies**

No Transaction Obligor has delivered particulars, whether in its name stated in the Finance Documents or any other name, of any UK Establishment to the Registrar of Companies as required under the Overseas Regulations or, if it has so registered, it has provided to the Facility Agent sufficient details to enable an accurate search against it to be undertaken by the Lenders at the Companies Registry.

**20.28 Good title to assets**

It has good, valid and marketable title to, or valid leases or licences of, and all appropriate Authorisations to use, the assets necessary to carry on its business as presently conducted.

**20.29 Ownership**

- (a) Each Borrower is the sole legal and beneficial owner of the Ship owned by it, its Earnings and its Insurances.
- (b) With effect on and from the date of its creation or intended creation, each Transaction Obligor will be the sole legal and beneficial owner of any asset that is the subject of any Transaction Security created or intended to be created by such Transaction Obligor.

- (c) The constitutional documents of each Transaction Obligor do not and could not restrict or inhibit any transfer of limited liability company interests of any Borrower on creation or enforcement of the security conferred by the Security Documents.

### **20.30 Centre of main interests and establishments**

For the purposes of The Council of the European Union Regulation No. 2015/848 on Insolvency Proceedings (recast) (the "**Regulation**"), its centre of main interest (as that term is used in Article 3(1) of the Regulation) is situated in Greece and it has no "establishment" (as that term is used in Article 2(10) of the Regulation) in any other jurisdiction.

### **20.31 Place of business**

No Transaction Obligor has a place of business in any country other than Greece or, in respect of the Guarantors, the United States of America **Provided that** following the Merger is completed the place of business of the Guarantors may cease to be the United States of America in which case the Obligors undertake to inform the Facility Agent immediately upon such change occurring.

### **20.32 No employee or pension arrangements**

No Obligor has any employees or any liabilities under any pension scheme.

### **20.33 Sanctions**

(a) No Transaction Obligor:

- (i) is a Prohibited Person;
- (ii) is owned or controlled by or acting directly or indirectly on behalf of or for the benefit of, a Prohibited Person;
- (iii) owns or controls a Prohibited Person;
- (iv) has a Prohibited Person serving as a director, officer or, to the best of its knowledge, employee;
- (v) is located, organised or resides in a Sanctioned Country;
- (vi) has or intends to have any business operations or other dealings:
  - (A) in a Sanctioned Country;
  - (B) with any Specially Designated National ("**SDN**") on OFAC's SDN list or with a designated person targeted by asset freeze sanctions imposed by the United Nations, European Union or Her Majesty's Treasury
  - (C) involving commodities or services of a Sanctioned Country origin or shipped to, though, or from a Sanctioned Country, or on Sanctioned Country owned or registered vessels or aircraft, or finance or subsidize any of the foregoing exceeding 5% aggregated in comparison to any Obligor's total assets or revenues.

- (b) No proceeds of any Advance or the Loan shall be made available, directly or indirectly:
  - (i) to or for the benefit of a Prohibited Person;
  - (ii) applied in a manner or for a purpose prohibited by Sanctions; or
  - (iii) to fund or facilitate any activity of or a business in any Sanctioned Country.

#### **20.34 Charterer compliance with Sanctions**

No Borrower has granted or agreed to grant any Charter of its Ship where that Ship will be conducting business or transactions in connection with a UHRC without including a provision in the Charter requiring the relevant charterer to comply with all applicable Sanctions with regards the operation of that Ship.

#### **20.35 US Tax Obligor**

No Transaction Obligor is a US Tax Obligor.

#### **20.36 Margin Regulations; Investment Company Act**

- (a) No Borrower is engaged, nor will it engage, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U issued by the Board of Governors of the Federal Reserve System of the United States; and
- (b) No Borrower is, or is it required to be, registered as an "investment company" under the United States of America Investment Company Act of 1940.

#### **20.37 Patriot Act**

To the extent applicable each Borrower is in compliance with (i) the Trading with the Enemy Act, and each of the foreign assets control regulations of the United States Treasury Department (31 C.F.R., Subtitle B, Chapter V) and any other enabling legislation or executive order relating thereto and (ii) the PATRIOT Act. No part of the proceeds of the Loan will be used, directly or indirectly, for any payments to any government official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended.

#### **20.38 Anti-Bribery and Corruption Laws**

- (a) It and each other member of the Group has not nor, to the best of its knowledge, any director, officer, employee, associated party or person acting on behalf of any Obligor or any member of the Group has engaged in any activity which would breach the Anti-Bribery and Corruption Laws.
- (b) To the best of its knowledge and belief, no actions or investigations by any governmental or regulatory agency are ongoing or threatened against it or any member of the Group, or any of their directors, officers, employee, associated party or person acting on their behalf in relation to a breach of the Anti-Bribery and Corruption Laws.



- (c) It and any member of the Group has instituted and will maintain and enforce policies and procedures designed to ensure compliance with the Anti-Bribery and Corruption Laws.
- (d) It will not directly or indirectly use, lend or contribute the proceeds raised under the Agreement for any purpose that would breach the Anti-Bribery and Corruption Laws.

#### **20.39 Anti-Money Laundering Laws**

- (a) It has conducted its business and operations at all times in compliance Anti-Money Laundering Laws.
- (b) No action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving an Obligor including any of their existing or previous officers, directors, employees, agents, affiliates, associated parties and persons acting on behalf of the Obligors with respect to Anti-Money Laundering Laws is pending and, to the best of that Obligor's knowledge, no such actions, suits or proceedings are threatened or contemplated;
- (c) No Obligor, including any of their respective existing or previous officers, directors, employees, agents, affiliates, associated parties and persons acting on behalf of the Obligors shall not directly or indirectly use the transaction proceeds for any purpose that would breach Anti-Money Laundering Laws
- (d) It is acting for its own account in relation to the Loan and in relation to the performance and the discharge of its obligations and liabilities under the Finance Documents and the transactions and other arrangements effected or contemplated by the Finance Documents to which an Obligor is a party, and the foregoing will not involve or lead to contravention of any law, official requirement or other regulatory measure or procedure implemented to combat money laundering (as defined in Article 1 of the Directive 2015/849/EC of the European Parliament and of the Council of the European Communities).

#### **20.40 No immunity**

No Obligor nor any of its assets is entitled to immunity on grounds of sovereignty or otherwise from any legal action or proceeding (including, without limitation, suit, attachment prior to judgement, execution or other enforcement).

#### **20.41 AIF and AIFM**

No Obligor is an AIF or an AIFM.

#### **20.42 Sanctions policies and procedures**

The Obligors have instituted and maintain policies and procedures designed to prevent Sanction violations by the Obligors and any other member of the Group.

#### **20.43 Sanctions Proceedings**

No Obligor knows nor has a reason to believe that any of them is or may become a Prohibited Person or the subject of Sanctions-related investigations or juridical proceedings.

#### **20.44 Repetition**

The Repeating Representations are deemed to be made by each Obligor by reference to the facts and circumstances then existing on the date of the Utilisation Request and the first day of each Interest Period and upon the Effective Date.

### **21 INFORMATION UNDERTAKINGS**

#### **21.1 General**

The undertakings in this Clause 21 (*Information Undertakings*) remain in force throughout the Security Period unless the Facility Agent, acting with the authorisation of the Majority Lenders (or, where specified, all the Lenders), may otherwise permit.

#### **21.2 Financial statements**

(a) The Guarantors shall supply to the Facility Agent in sufficient copies for all the Lenders:

(i) subject to paragraph (b) below, as soon as they become available, but in any event within 180 days after the end of each of Guarantor A's and Guarantor B's financial years the audited consolidated financial statements for that financial year of Guarantor A and Guarantor B;

(ii) as soon as the same become available, but in any event within 120 days after the end of each 6-month period ending on 30 June and 31 December of each of Guarantor A's and Guarantor B's financial years the unaudited consolidated financial statements of Guarantor A and Guarantor B for that 6-month period;

(iii) as soon as the same become available, but in any event within 90 days after the end of each 3-month period ending on 31 March and 30 September of each of Guarantor A's and Guarantor B's financial years the unaudited consolidated financial statements of Guarantor A and Guarantor B for that 3-month period;

(iv) as soon as the same become available, but in any event within 90 days after the end of each 3-month period of each of the Borrowers' financial years the unaudited financial statements of each Borrower for that 3-month period;

(v) as soon as the same become available, but in any event within 180 days after the end of each of the Borrower's financial years, the annual unaudited financial statements of that financial year of each Borrower certified for its correctness by an officer of Guarantor A; and

(vi) as soon as possible, but in no event later than 30 days after the end of each financial year of Guarantor A and Guarantor B, a three year financial forecast, including assumptions and commentary of reasonable substance, acceptable to the Facility Agent (acting on the instructions of the Majority Lenders), of Guarantor A and Guarantor B;

(b) The Guarantors shall:

(i) not be obliged to provide the audited consolidated financial statements referred to in paragraph (a)(i) above unless the New Parent ceases to be listed in NYSE at any time during the Security Period;

- (ii) as soon as they become available, but in any event within 120 days after the end of each of the New Parent's financial years the publicly available annual audited consolidated financial statements for that financial year of the New Parent, prepared in accordance with NYSE rules, as such statements are published on the New Parent's website;
- (iii) provide, on a quarterly basis, any financial information reasonably required by the Facility Agent in relation to the New Parent which is not publicly available and may not be accessed by the Facility Agent;

### **21.3 Compliance Certificate**

- (a) Guarantor A and Guarantor B shall supply to the Facility Agent, with each set of Financial Statements a Compliance Certificate setting out (in reasonable detail) computations as to compliance with Clause 22 (*Financial Covenants*) as at the date as at which those Financial Statements were drawn up.
- (b) Each Compliance Certificate shall be signed by an officer of Guarantor A.

### **21.4 Requirements as to financial statements**

- (a) Each set of financial statements delivered pursuant to Clause 21.2 (*Financial statements*) shall be certified by an officer of Guarantor A, as fairly presenting the financial condition and operations of the company to which those statements relate as at the date as at which those financial statements were drawn up.
- (b) Each Borrower shall procure that each set of financial statements of an Obligor delivered pursuant to Clause 21.2 (*Financial statements*) is prepared using GAAP, accounting practices and financial reference periods consistent with those applied in the preparation of the Original Financial Statements for that Obligor unless, in relation to any set of financial statements, it notifies the Facility Agent that there has been a change in GAAP, the accounting practices or reference periods and its auditors (or, if appropriate, the auditors of the Obligor) deliver to the Facility Agent:
  - (i) a description of any change necessary for those financial statements to reflect the GAAP, accounting practices and reference periods upon which that Obligor's Original Financial Statements were prepared; and
  - (ii) sufficient information, in form and substance as may be reasonably required by the Facility Agent (acting on the instructions of the Lenders), to enable the Lenders to determine whether Clause 22 (*Financial Covenants*) has been complied with and make an accurate comparison between the financial position indicated in those financial statements and that Obligor's Original Financial Statements.

Any reference in this Agreement to those financial statements shall be construed as a reference to those financial statements as adjusted to reflect the basis upon which the Original Financial Statements were prepared.

## 21.5 Information: miscellaneous

Each Obligor shall and shall procure that each other Transaction Obligor (other than the Approved Managers) shall supply to the Facility Agent (in sufficient copies for all the Lenders, if the Facility Agent (acting on the instructions of the Majority Lenders) so requests):

- (a) promptly after the Facility Agent's demand (acting on the instructions of the Majority Lenders), all documents dispatched by it to its equity holders (or any class of them) or its creditors generally at the same time as they are dispatched;
- (b) promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings or investigations (including proceedings or investigations relating to any alleged or actual breach of the ISM Code or of the ISPS Code) which are current, threatened or pending against any member of the Group, and which might, if adversely determined, have a Material Adverse Effect;
- (c) promptly upon becoming aware of them, the details of any judgment or order of a court, arbitral body or agency which is made against any member of the Group and which might have a Material Adverse Effect;
- (d) promptly, its constitutional documents where these have been amended or varied;
- (e) promptly, such further information and/or documents regarding:
  - (i) each Ship, goods transported on each Ship, its Earnings (including any Charter) and its Insurances;
  - (ii) the Security Assets;
  - (iii) compliance of the Transaction Obligors with the terms of the Finance Documents;
  - (iv) the financial condition, business and operations of any member of the Group;
  - (v) the DSCR calculation,as any Finance Party (through the Facility Agent) may reasonably request; and
- (f) promptly, such further information and/or documents as any Finance Party (through the Facility Agent) may reasonably request so as to enable such Finance Party to comply with any laws applicable to it or as may be required by any regulatory authority.

## 21.6 Notification of Default

- (a) Each Obligor shall, and shall procure that each other Transaction Obligor shall, notify the Facility Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence (unless that Obligor is aware that a notification has already been provided by another Obligor).
- (b) Each Obligor shall, and shall procure that each other Transaction Obligor shall, notify the Facility Agent of any default under any financing agreement of the New Parent (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence (unless that Obligor is aware that a notification has already been provided by another Obligor).

- (c) Promptly upon a request by the Facility Agent (acting on the instructions of the Majority Lenders), each Borrower shall supply to the Facility Agent a certificate signed by an officer on its behalf certifying that no Default is continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).
- (d) Each Obligor shall notify the Facility Agent if it anticipates that on the next Testing Date it will be in breach of Clause 22 (*Financial Covenants*) (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence (unless that Obligor is aware that a notification has already been provided by another Obligor).

#### 21.7 Use of websites

- (a) Each Obligor may satisfy its obligation under the Finance Documents to which it is a party to deliver any information in relation to those Lenders (the "**Website Lenders**") which accept this method of communication by posting this information onto an electronic website designated by the Borrowers and the Facility Agent (the "**Designated Website**") if:
  - (i) the Facility Agent expressly agrees (after consultation with each of the Lenders) that it will accept communication of the information by this method;
  - (ii) both the relevant Obligor and the Facility Agent are aware of the address of and any relevant password specifications for the Designated Website; and
  - (iii) the information is in a format previously agreed between the relevant Obligor and the Facility Agent (acting on the instructions of the Majority Lenders).

If any Lender (a "**Paper Form Lender**") does not agree to the delivery of information electronically then the Facility Agent shall notify the Obligors accordingly and each Obligor shall supply the information to the Facility Agent (in sufficient copies for each Paper Form Lender) in paper form. In any event each Obligor shall supply the Facility Agent with at least one copy in paper form of any information required to be provided by it.

- (b) The Facility Agent shall supply each Website Lender with the address of and any relevant password specifications for the Designated Website following designation of that website by the Obligors or any of them and the Facility Agent.
- (c) An Obligor shall promptly upon becoming aware of its occurrence notify the Facility Agent if:
  - (i) the Designated Website cannot be accessed due to technical failure;
  - (ii) the password specifications for the Designated Website change;
  - (iii) any new information which is required to be provided under this Agreement is posted onto the Designated Website;
  - (iv) any existing information which has been provided under this Agreement and posted onto the Designated Website is amended; or
  - (v) if that Obligor becomes aware that the Designated Website or any information posted onto the Designated Website is or has been infected by any electronic virus or similar software.

If an Obligor notifies the Facility Agent under sub-paragraph (i) or (v) of paragraph (c) above, all information to be provided by the Obligors under this Agreement after the date of that notice shall be supplied in paper form.

- (d) Any Website Lender may request, through the Facility Agent, one paper copy of any information required to be provided under this Agreement which is posted onto the Designated Website. The Obligors shall comply with any such request within 10 Business Days.

#### **21.8 “Know your customer” checks**

- (a) If:
- (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Agreement;
  - (ii) any change in the status of a Transaction Obligor (or of a Holding Company of a Transaction Obligor) (including, without limitation, a change of ownership of a Transaction Obligor or of a Holding Company of a Transaction Obligor) after the date of this Agreement; or
  - (iii) a proposed assignment or transfer by a Lender of any of its rights and obligations under this Agreement to a party that is not a Lender prior to such assignment or transfer,

obliges a Finance Party (or, in the case of sub-paragraph (iii) above, any prospective new Lender) to comply with “know your customer” or similar identification procedures in circumstances where the necessary information is not already available to it, each Obligor shall promptly upon the request of any Finance Party supply, or procure the supply of, such documentation and other evidence as is reasonably requested by a Servicing Party (for itself or on behalf of any other Finance Party) or any Lender (for itself or, in the case of the event described in sub-paragraph (iii) above, on behalf of any prospective new Lender) in order for such Finance Party or, in the case of the event described in sub-paragraph (iii) above, any prospective new Lender to carry out and be satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

- (b) Each Lender shall promptly upon the request of a Servicing Party supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Servicing Party (for itself) in order for that Servicing Party to carry out and be satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

## **22 FINANCIAL COVENANTS**

### **22.1 Borrowers’ minimum liquidity**

- (a) Each Borrower shall maintain on and from the Utilisation Date and at all times throughout the Security Period an amount equal to at least \$1,730,000 (each a “**Minimum Liquidity Amount**”) in its respective Liquidity Account.
- (b) Each Borrower shall further maintain in its respective Liquidity Account the following additional amounts subject to the terms and at the times specified below:

- (i) if the duration of any of the Initial Charters is not extended pursuant to a Qualifying Extension, or substituted by a new charter, on terms similar to those set out in the relevant Initial Charter and with a charterer acceptable to the Lenders (in their sole discretion) (the “**Substitute Initial Charter**”), the Borrower owning that Ship shall further deposit on the date falling one month prior to the expiry of the initial duration of that Initial Charter (excluding any extension options) and maintain at all times thereafter throughout the Security Period in its Liquidity Account an amount (each a “**Charter-Extension Liquidity Amount**”) equal to the difference between (1) Debt Service (calculated on a trailing six-months basis) for the 6-month period ending on the date on which the Debt Service is determined and (2) the Minimum Liquidity Amount in respect of that Borrower **Provided that** if any of the Initial Charters is extended or substituted by a Substitute Initial Charter for a duration going beyond the Termination Date, the relevant Borrower shall not be required to deposit a Charter-Extension Liquidity Amount **Provided further that** if at any time after the deposit of any Charter-Extension Liquidity Amount in a Liquidity Account pursuant to this sub-paragraph (b)(i), the relevant Borrower, enters into a Substitute Initial Charter, that Borrower shall not, for the duration of the Substitute Initial Charter, be obliged to maintain a Charter-Extension Liquidity Amount which shall be released to the order of that Borrower on or after the date on which the Facility Agent (acting on behalf of the Majority Lenders) confirms to the relevant Borrower its approval of the Substitute Initial Charter and the charterer thereunder;

In this Clause 22.1(b)(i), “**Qualifying Extension**” means, (a) in relation to an Initial Charter and (b) in relation to a Substitute Initial Charter, a charter:

- (A) for an additional period (excluding optional extensions) equal to no less than 24 months;
  - (B) on terms similar (as determined by the Facility Agent in its discretion, acting on the instructions of the Majority Lenders) to those set out in the relevant Initial Charter;
  - (C) which is effected at least one month prior to the expiry of the then applicable expiry date of that Initial Charter (excluding any extension options); and
  - (D) which is effected once during the Security Period in relation to each of Ship B and Ship C and twice during the Security Period in relation to Ship A **Provided that** if the Initial Charter in respect of Ship A is extended for a period ending on a date falling after the Termination Date, only one such extension will be required;
- (ii) if any of the Initial Charters becoming the subject of Qualifying Extension or a Substitute Initial Charter (as applicable), has a net daily rate (the “**New Charter Rate**”) which is lower than \$32,000 per day (the “**Minimum Charter Rate**”), then the Borrower owning the Ship to which that Initial Charter or Substitute Initial Charter relates (as the case may be) shall further deposit and maintain thereafter throughout the Security Period in its Liquidity Account an amount equal to the amount by which the Minimum Charter Rate exceeds the New Charter Rate multiplied by 720 days;
- (iii) if the consolidated New Parent’s Cash falls below in aggregate (i) \$50,000,000 or (ii) the product of (1) \$1,250,000 and (2) the number of vessels directly or indirectly

owned by the New Parent and any of its Subsidiaries, then each of the Borrowers which has not previously deposited a Charter-Extension Liquidity Amount in its Liquidity Account, shall further deposit in its Liquidity Account on the relevant date and for so long as the afore-mentioned conditions under (A) and (B) above apply, an amount equal to the difference between (1) Debt Service (calculated on a trailing six-months basis) for the 6-month period ending on the date on which the Debt Service is determined and (2) the Minimum Liquidity Amount in respect of that Borrower.

- (iv) if any Ship is not subject to loss of Earnings cover, which satisfies the requirements of Clause 24.6 (*Voluntary Insurances*), then the Borrower owning such Ship, shall further deposit in its Liquidity Account an additional amount of \$100,000 on and from the date on which, and for so long as, that Ship is not covered by a loss of Earnings insurances policy, satisfying the requirements of Clause 24.6 (*Voluntary Insurances*).

## 22.2 Guarantor A's financial covenants

Guarantor A shall ensure that from the Utilisation Date and at all times during the Security Period:

- (a) the Value Adjusted Leverage Ratio shall not exceed 75 per cent.;
- (b) the minimum Net Worth shall not be less than \$50,000,000; and
- (c) the Book Leverage Ratio shall not exceed during the period commencing on:
  - (i) the Utilisation Date and ending on 31 December 2018 (inclusive), 85 per cent.; and
  - (ii) at all times thereafter, 75 per cent.

## 22.3 Compliance Check

Compliance with the undertakings contained in Clauses 22.1 (*Borrowers' minimum liquidity*) and 22.1(a) (*Guarantor A's financial covenants*) shall be determined on each Testing Date and evidenced by the Compliance Certificate.

## 22.4 Definitions

The expressions used in this Clause 22 (*Financial Covenants*) shall be construed in accordance with GAAP, and for purposes of this Agreement:

**"Book Leverage Ratio"** means the ratio of Total Consolidated Long Term Debt to Total Assets, as shown in the applicable Financial Statements for Guarantor A for any accounting period and determined in accordance with GAAP.

**"Financial Statements"** means:

- (a) the annual financial statements provided pursuant to sub-paragraph (i) of paragraph (a) of Clause 21.2 (*Financial statements*) or sub-paragraph (ii) of paragraph (b) of Clause 21.2 (*Financial statements*) (as applicable);
- (b) the semi-annual financial statements provided pursuant to sub-paragraph (ii) of paragraph (a) of Clause 21.2 (*Financial statements*) or; and



- (c) the quarterly financial statements provided pursuant to sub-paragraph (iii) of paragraph (a) of Clause 21.2 (*Financial statements*).

**"Fleet Market Value"** means in relation to a Fleet Vessel, the Market Value of such Fleet Vessel.

**"Fleet Vessels"** means any vessel (including the Ships) from time to time wholly owned by Guarantor A (directly or indirectly) (each a "Fleet Vessel").

**"Net Worth"** means equity payments already advanced in respect of the Fleet Vessels less the aggregate of (a) accumulated dividends and (b) retained earnings of the Fleet Vessels, as each such term is defined in the applicable Financial Statements for Guarantor A determined in accordance with GAAP.

**"Testing Date"** means any yearly, semi-annual and quarterly period (as applicable) to the end of which the Financial Statements are prepared (commencing with the yearly financial period ending on 31 December 2018).

**"Total Assets"** means the amount of the total assets of Guarantor A at any time on a consolidated basis which would be included in the applicable Financial Statements as total assets determined in accordance with GAAP.

**"Total Consolidated Long Term Debt"** means the amount of the total liabilities of the Guarantor A (as such term is defined in the applicable Financial Statements) at any time on a consolidated basis which would be included in the applicable Financial Statements of Guarantor A as total long term debt in accordance with GAAP including the current portion of long term debt (as such term is defined in the applicable Financial Statements for Guarantor A).

**"Value Adjusted Leverage Ratio"** means the ratio of Total Consolidated Long Term Debt to Value Adjusted Total Assets.

**"Value Adjusted Total Assets"** means the Total Assets of Guarantor A adjusted in each case for the difference of the book value of the Fleet Vessels (as evidenced in the most recent Financial Statements) and the Fleet Market Value.

## **23 GENERAL UNDERTAKINGS**

### **23.1 General**

The undertakings in this Clause 23 (*General Undertakings*) remain in force throughout the Security Period except as the Facility Agent, acting with the authorisation of the Majority Lenders (or, where specified, all the Lenders) may otherwise permit.

### **23.2 Authorisations**

Each Obligor shall, and shall procure that each other Transaction Obligor will, promptly:

- (a) obtain, comply with and do all that is necessary to maintain in full force and effect; and
- (b) supply certified copies to the Facility Agent of,

any Authorisation required under any law or regulation of a Relevant Jurisdiction or the state of the Approved Flag at any time of each Ship to enable it to:

- (i) perform its obligations under the Transaction Documents to which it is a party;
- (ii) ensure the legality, validity, enforceability or admissibility in evidence in any Relevant Jurisdiction or in the state of the Approved Flag at any time of each Ship, of any Transaction Document to which it is a party; and
- (iii) own and operate each Ship (in the case of the Borrowers).

### **23.3 Corporate Existence**

Each Obligor shall maintain its separate corporate existence, remain in goodstanding under the law of its jurisdiction of incorporation or formation and duly observe and conform to all requirements of any governmental authorities relating to the conduct of its business or to its properties or assets.

### **23.4 Compliance with laws**

Each Obligor shall, and shall procure that each other Transaction Obligor will, comply in all respects with all laws and regulations to which it may be subject, if failure so to comply has or is reasonably likely to have a Material Adverse Effect, including without limitation (i) the Trading with the Enemy Act and each of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V) and any other enabling legislation or executive order thereto) and (ii) the PATRIOT Act.

### **23.5 Environmental compliance**

Each Obligor shall, and shall procure that each other Transaction Obligor will, and Guarantor A shall ensure that each other member of the Group will:

- (a) comply with all Environmental Laws;
  - (b) obtain, maintain and ensure compliance with all requisite Environmental Approvals;
  - (c) implement procedures to monitor compliance with and to prevent liability under any Environmental Law,
- where failure to do so has or is reasonably likely to have a Material Adverse Effect.

### **23.6 Environmental Claims**

Each Obligor shall, and shall procure that each other Transaction Obligor will, (through Guarantor A) promptly upon becoming aware of the same, inform the Facility Agent in writing of:

- (a) any Environmental Claim against any member of the Group which is current, pending or threatened; and
- (b) any facts or circumstances which are reasonably likely to result in any Environmental Claim being commenced or threatened against any member of the Group,

where the claim, if determined against that member of the Group, has or is reasonably likely to have a Material Adverse Effect.

### **23.7 Taxation**

- (a) Each Obligor shall, and Guarantor A shall procure that Odysisia NB will, pay and discharge all Taxes imposed upon it or its assets within the time period allowed without incurring penalties unless and only to the extent that:
- (i) such payment is being contested in good faith;
  - (ii) adequate reserves are maintained for those Taxes and the costs required to contest them and both have been disclosed in its latest financial statements delivered to the Facility Agent under Clause 21.2 (*Financial statements*); and
  - (iii) such payment can be lawfully withheld.
- (b) No Obligors shall, and Guarantor A shall procure that Odysisia NB will not, change its residence for Tax purposes.

### **23.8 Overseas companies**

Each Obligor shall, and Guarantor A shall procure that Odysisia NB, promptly inform the Facility Agent if it delivers to the Registrar particulars required under the Overseas Regulations of any UK Establishment and it shall comply with any directions given to it by the Facility Agent regarding the recording of any Transaction Security on the register which it is required to maintain under The Overseas Companies (Execution of Documents and Registration of Charges) Regulations 2009.

### **23.9 No change to centre of main interests**

No Obligor shall, and Guarantor A shall procure that Odysisia NB shall not, change the location of its centre of main interest (as that term is used in Article 3(1) of the Regulation) from that stated in relation to it in Clause 20.30 (*Centre of main interests and establishments*) and it will create no “**establishment**” (as that term is used in Article 2(10) of the Regulation) in any other jurisdiction.

### **23.10 Pari passu ranking**

Each Obligor shall, and shall procure that Odysisia NB shall, ensure that at all times any unsecured and unsubordinated claims of a Finance Party against it under the Finance Documents rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors except those creditors whose claims are mandatorily preferred by laws of general application to companies.

### **23.11 Title**

- (a) Each Borrower shall hold the legal title to, and own the entire beneficial interest in the Ship owned by it, its Earnings and its Insurances;

- (b) With effect on and from its creation or intended creation, each Obligor shall hold the legal title to, and own the entire beneficial interest in any other assets the subject of any Transaction Security created or intended to be created by such Obligor.

### **23.12 Negative pledge**

(a)

- (i) No Borrower shall create any form of Security over any of its assets or revenues other than Permitted Security; and
- (ii) No Guarantor shall create any form of Security (other than Permitted Security), over any of its assets or revenues unless it is reasonably incurred in the normal course of its business (without limitation) of acquiring and financing vessels to be owned by that Guarantor or any of its present or future Subsidiaries.

(b) No Obligor shall:

- (i) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by a Transaction Obligor or any other member of the Group;
- (ii) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
- (iii) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
- (iv) enter into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

(c) Paragraphs (i) and (b) above do not apply to any Permitted Security.

### **23.13 Disposals**

- (a) No Borrower shall enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any asset (including without limitation any Ship, its Earnings or its Insurances) other than as may be permitted under the terms of this Agreement or any other Finance Document.
- (b) Paragraph (a) above does not apply to any Charter as all Charters are subject to Clause 25.16 (*Restrictions on use, chartering, appointment of managers etc.*).

### **23.14 Change of business**

- (a) Each Guarantor shall procure that no substantial change is made to the general nature of its business from that carried on at the date of the Senior Facility Agreement.
- (b) Guarantor A shall procure that no substantial change is made to the general nature of the business of the Group from that carried on at the date of the Senior Facility Agreement.

- (c) No Borrower shall engage in any business other than the ownership and operation of its Ship.

### **23.15 Financial Indebtedness**

No Obligor shall:

- (a) in the case of a Borrower, incur or permit to be outstanding any Financial Indebtedness except (i) Financial Indebtedness incurred in the normal course of its business of trading, chartering, managing, insuring, maintaining and operating its Ship (including, for the avoidance of doubt, any trade debt) **Provided that** the aggregate of such Financial Indebtedness at any time shall not exceed \$750,000 (or the equivalent in any other currency) for each Ship, including any Financial Indebtedness created under paragraph (b) of Clause 23.19 (*Other transactions*) but excluding any Financial Indebtedness created (A) for the purposes of any of the Scheduled Dry-Dockings and (B) by any unforeseen capitalised expenses that would be covered by the Insurances and only until such Insurances are paid out to the Borrowers, relating to maintenance or repairs on any Ship, which would require dry-docking repairs or maintenance and (ii) Permitted Financial Indebtedness; and
- (b) in the case of a Guarantor, incur or permit to be outstanding Financial Indebtedness except for (i) Financial Indebtedness incurred in the ordinary course of its business (including, without limitation, the issuance of guarantees securing the obligations of any of its future or present Subsidiaries and any guarantee previously granted by that Guarantor as at the date of the Senior Facility Agreement and disclosed to the Facility Agent) and (ii) Permitted Financial Indebtedness.

### **23.16 Expenditure**

No Borrower shall incur any expenditure, except for expenditure reasonably incurred in the ordinary course of owning, operating, maintaining, insuring and repairing its Ship. For the avoidance of doubt, no Borrower shall incur any expenditure for retrofitting the Ships with scrubbers unless the commercial terms of such retrofitting costs have been discussed between the Borrowers and the Facility Agent (acting with the authorisation of the Majority Lenders) in good faith and the Facility Agent (acting on the instructions of the Majority Lenders) has granted its permission in writing.

### **23.17 Limited liability company interests**

No Borrower shall:

- (a) purchase, cancel or redeem any of its LLC shares;
- (b) increase or reduce its LLC shares; and
- (c) issue any further LLC Shares except to Odysia NB provided such new LLC Shares are made subject to the terms of the relevant Shares Security applicable to that Borrower immediately upon the issue of such new LLC Shares in a manner satisfactory to the Facility Agent (acting on the instructions of the Lenders) and the terms of the relevant Shares Security are complied with.

### 23.18 Dividends

Each Borrower shall be entitled to declare, make or pay any dividend, charge, fee or other distribution (or interest on any unpaid dividend, charge, fee or other distribution) (whether in cash or in kind) on or in respect of its equity interests (or any class of its equity interests) of up to 50 per cent. of the Cash Flow to Equity in respect of the relevant financial year, if the following conditions are met at the time of such distribution:

- (a) the aggregate Market Value of the Ships then subject to a Mortgage plus the net realisable value of any additional Security previously provided under this Clause 26 (*Security Cover*) is equal to at least 140 per cent. of the Loan;
- (b) **each of the Initial Charters or a Substitute Initial Charter** has been extended by a minimum period of 24 months without taking into account any extension option (once during the Security Period in relation to each of Ship B and Ship C and twice during the Security Period in relation to Ship A **Provided that** if the Initial Charter in respect of Ship A is extended for a period ending on a date falling after the Termination Date, one such extension will be required);
- (c) the Borrowers have complied with their obligations pursuant to Clause 22.1 (*Borrowers' minimum liquidity*);
- (d) no Default has occurred or is continuing; and
- (e) the making or payment of such dividend or distribution would not result in the occurrence of a Default.

### 23.19 Other transactions

No Borrower shall:

- (a) be the creditor in respect of any loan or any form of credit to any person other than another Obligor and where such loan or form of credit is Permitted Financial Indebtedness;
- (b) give or allow to be outstanding any guarantee or indemnity to or for the benefit of any person in respect of any obligation of any other person or enter into any document under which that Borrower assumes any liability of any other person other than (i) any guarantee or indemnity given under the Finance Documents or (ii) any guarantee and indemnity issued in the ordinary course of its business of trading, chartering and operating the Ship owned by it having an aggregate maximum value of \$500,000 in respect of that Borrower or such higher value as may be requested by that Borrower and approved in writing by the Facility Agent (acting on the instructions of the Majority Lenders);
- (c) enter into any material agreement other than:
  - (i) the Transaction Documents;
  - (ii) any other agreement expressly allowed under any other term of this Agreement or in the ordinary course of that Borrower's business of trading, operating and chartering the relevant Ship; and

- (d) enter into any transaction on terms which are, in any respect, less favourable to that Transaction Obligor than those which it could obtain in a bargain made at arms' length;
- (e) acquire any shares or other securities other than US or UK Treasury bills and certificates of deposit issued by major North American or European banks; or
- (f) enter into any Charters of any Ships in a chartering capacity.

**23.20 Unlawfulness, invalidity and ranking; Security imperilled**

No Obligor shall, and the Obligors shall procure that no other Transaction Obligor will do (or fail to do) or cause or permit another person to do (or omit to do) anything which is likely to:

- (a) make it unlawful for a Transaction Obligor to perform any of its obligations under the Transaction Documents;
- (b) cause any obligation of a Transaction Obligor under the Transaction Documents to cease to be legal, valid, binding or enforceable;
- (c) cause any Transaction Document to cease to be in full force and effect;
- (d) cause any Transaction Security to rank after, or lose its priority to, any other Security; and
- (e) imperil or jeopardise the Transaction Security.

**23.21 Further assurance**

- (a) Each Obligor shall, and shall procure that each other Transaction Obligor will promptly, and in any event within the time period specified by the Security Agent (acting on the instructions of the Majority Lenders) do all such acts (including procuring or arranging any registration, notarisation or authentication or the giving of any notice) or execute or procure execution of all such documents (including assignments, transfers, mortgages, charges, notices, instructions, acknowledgments, proxies and powers of attorney), as the Security Agent may specify (acting on the instructions of the Majority Lenders) (and in such form as the Security Agent may require (acting on the instructions of the Facility Agent which is acting on the instructions of the Majority Lenders) in favour of the Security Agent or its nominee(s)):
  - (i) to create, perfect, vest in favour of the Security Agent or protect the priority of the Security or any right of any kind created or intended to be created under or evidenced by the Finance Documents (which may include the execution of a mortgage, charge, assignment or other Security over all or any of the assets which are, or are intended to be, the subject of the Transaction Security) or for the exercise of any rights, powers and remedies of any of the Secured Parties provided by or pursuant to the Finance Documents or by law;
  - (ii) to confer on the Security Agent or confer on the Secured Parties Security over any property and assets of that Transaction Obligor located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to the Finance Documents;
  - (iii) to facilitate or expedite the realisation and/or sale of, the transfer of title to or the grant of, any interest in or right relating to the assets which are, or are intended to be,

the subject of the Transaction Security or to exercise any power specified in any Finance Document in respect of which the Security has become enforceable;

- (iv) to enable or assist the Security Agent to enter into any transaction to commence, defend or conduct any proceedings and/or to take any other action relating to any item of the Security Property; and/or
  - (v) following the Senior Discharge Date (as such term is defined in the Intercreditor Agreement), to amend, as necessary, any Security Documents to reflect the repayment or prepayment in full of the Senior Facility Agreement.
- (b) Each Obligor shall, and shall procure that each other Transaction Obligor will take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Security Agent or the Secured Parties by or pursuant to the Finance Documents.
- (c) At the same time as an Obligor delivers to the Security Agent any document executed by itself or another Transaction Obligor pursuant to this Clause 23.21 (*Further assurance*), that Obligor shall deliver, or shall procure that such other Transaction Obligor will deliver, to the Security Agent a certificate signed by one of that Obligor's or Transaction Obligor's officers which shall:
- (i) set out the text of a resolution of that Obligor's or Transaction Obligor's directors or members, as applicable, specifically authorising the execution of the document specified by the Security Agent; and
  - (ii) state that either the resolution was duly passed at a meeting of the directors or members, as applicable, validly convened and held, throughout which a quorum of directors or members, as applicable, entitled to vote on the resolution was present, or that the resolution has been signed by all the directors or members and is valid under that Obligor's or Transaction Obligor's articles of association or other constitutional documents.
- (d) Each Obligor confirms that the Security Interests created under each Security Document, including, for the avoidance of doubt, any Account Security, extend to the obligations of the Obligors under this Agreement and each other Finance Document and the defined term "Secured Liabilities" in this Agreement and to the extent used in any Security Document shall, and has always been intended to, apply to and secure all obligations of such party in connection with the relevant Finance Documents, including the Relevant Retrenching Documents.

#### **23.22 No Subsidiaries**

No Borrower shall form or acquire any Subsidiaries.

#### **23.23 Employees and ERISA Compliance**

No Borrower shall employ any individual nor sponsor, maintain or become obligated to contribute to any Plan. However, without prejudice to the foregoing, each Borrower shall provide prompt written notice to the Facility Agent in the event that that Borrower becomes aware that it has incurred or is reasonably likely to incur any liability with respect to any Plan,



that, individually or in the aggregate with any other such liability, would be reasonably expected to have a Material Adverse Effect.

#### **23.24 Books and records**

The Borrowers will keep proper books of record and account which will be accurate in all material respects and in which full, true and correct entries in accordance with GAAP will be made of all dealings or transactions in relation to its business and activities.

#### **23.25 Merger**

No Obligor shall, without prior consultation with the Facility Agent (acting with the authorisation of the Lenders), enter into any amalgamation, demerger, merger, consolidation or corporate reconstruction, **Provided that** such amalgamation, demerger, merger, consolidation or corporate reconstruction is permitted without restrictions so long as:

- (i) the New Parent remains the surviving entity of any such process;
- (ii) no Default has occurred at the relevant time or would be triggered as a result of such process; and
- (iii) the process of any such further amalgamation, demerger, merger, consolidation or corporate reconstruction does not have a Material Adverse Effect.

#### **23.26 Additional Guarantee**

The Guarantors shall use their best endeavours to procure that any New Parent provides an Additional Guarantee upon the request of the Facility Agent (acting on the instructions of the Lenders) **Provided that** the Guarantors shall have no such obligation if:

- (a) the New Parent is restricted from granting the Additional Guarantee by virtue of any law or any debt or financing agreement or other form of agreement to which it is a party as at the date of this Agreement; and
- (b) the New Parent existing major financing agreements have not been refinanced.

#### **23.27 Dry-Docking Reserves**

- (a) Each Borrower shall, on monthly basis (commencing on the date falling one month after the Utilisation Date), deposit and maintain thereafter in its respective Dry-Docking Reserve Account an amount equal to a fraction whose numerator is \$1,300,000 and denominator is the number of whole months falling between the Utilisation Date and the Scheduled Dry-Docking Date applicable to the Ship owned by it so as to ensure that the balance standing to the credit of its Dry-Docking Reserve Account on the Scheduled Dry-Docking Date applicable to its Ship is at least \$1,300,000 (the "**Initial Dry-Docking Reserve Accrual**"). Any balance standing to the credit of a Dry-Docking Reserve Account, following completion of the Scheduled Dry-Docking of the Ship owned by the Borrower relating to that Dry-Dock Reserve Account and payment of all amounts in connection with the Scheduled Dry-Docking shall be remitted to the Earnings Account of that Borrower and shall be treated for the purposes of Clause 6.2 (*Cash Sweep Repayment*) as Cash Flow.

- (b) Following the completion of the Scheduled Dry-Dockings in respect of its Ship (the “**Scheduled Dry-Docking Completion Date**”), each Borrower shall, on a monthly basis (commencing on the date falling one month after such Scheduled Dry-Docking Completion Date), deposit and maintain thereafter in its respective Dry-Docking Reserve Account, an amount equal to a fraction whose numerator is \$800,000 and denominator is the number of whole months from the Scheduled Dry-Docking Completion Date to the date of the next scheduled dry-docking in respect of its Ship so that the amount standing to the credit of Dry-Dock Reserve Account immediately prior to such subsequent dry-docking applicable to its Ship would be at least \$800,000 (the “**Additional Dry-Docking Reserve Accrual**” and together with the Initial Dry-Docking Reserve Accrual, the “**Dry-Docking Reserve Accrual**”), irrespective of whether such subsequent dry-docking will take place after the Termination Date. Any balance standing to the credit of the Dry-Docking Reserve Account on the Termination Date shall be released to the Borrowers.

#### **23.28 Most favoured nations – Guarantor A**

- (a) The Obligors undertake to procure that, throughout the duration of the Security Period, the Finance Parties shall receive no less favourable treatment under this Agreement in relation to any financial covenant relating to Guarantor A (including, without limitation, the covenants set out in Clauses 22 (*Financial covenants*) and/or change of control provisions (including, without limitation, the provisions set out in Clauses 7.2 (*Change of Control*)) than that provided or to be provided under any financing agreement of any member of the Group (by way of amendment or supplement to that financing agreement of that member of the Group) or any agreement refinancing or otherwise substituting any financing agreement of any member of the Group.
- (b) Notwithstanding paragraph (a) above, the Obligors shall promptly advise the Facility Agent of those arrangements and covenants in advance and shall, upon the Facility Agent's request (acting on the instructions of the Majority Lenders), enter into such documentation which amends and supplements this Agreement and any other Finance Document, as the Lenders may require in order to achieve parity with the creditors under the relevant financing of that member of the Group.

#### **23.29 Most favoured nations – New Parent**

- (a) If the Additional Guarantee is provided pursuant to Clause 23.26 (*Additional Guarantee*), the Obligors undertake to procure that, throughout the duration of the Security Period, the Finance Parties shall receive no less favourable treatment under this Agreement and/or the Additional Guarantee in relation to any financial covenant relating to the New Parent or dividend distribution provision relating to the New Parent than that provided or to be provided under any financing agreement of the New Parent (by way of amendment or supplement to that financing agreement) or any agreement refinancing or otherwise substituting any financing agreement of the New Parent.
- (b) Notwithstanding paragraph (a) above, the Obligors shall promptly advise the Facility Agent of those arrangements and covenants in advance and shall, upon the Facility Agent's request (acting on the instructions of the Majority Lenders), enter into such documentation which amends and supplements the Additional Guarantee, this Agreement and the other Finance Documents, as the Lenders may require in order to achieve parity with the creditors under the relevant financing of the New Parent.

**23.30 AIF and AIFM**

No Obligor will take (or omit to take) any action to the extent that doing so will, or is reasonably likely to, result in it being an AIF or an AIFM.

**23.31 Anti-Bribery and Corruption Laws**

- (a) No Obligor shall (and shall procure that no member of the Group shall) directly or indirectly use the proceeds of the Loan for any purpose which would breach Anti-Bribery and Corruption Laws; and
- (b) Each Obligor shall (and shall procure that no member of the Group shall):
  - (i) conduct its business and operations at all times in compliance with Anti-Bribery and Corruption Laws; and
  - (ii) maintain policies and procedures designed to promote and achieve compliance with Anti-Bribery and Corruption Laws.

**23.32 Financial year**

No Obligor shall (and Guarantor A shall ensure that no other member of the Group shall) change its financial year end date.

**23.33 Anti-Money Laundering Laws.**

Each Obligor shall (and shall procure that no member of the Group shall):

- (a) not use the transaction proceeds for any purpose that would breach Anti-Money Laundering Laws;
- (b) conduct its business and operations at all times in compliance Anti-Money Laundering Laws; and
- (c) maintain policies and procedures designed to promote and achieve compliance with Anti-Money Laundering Laws.

**23.34 Permitted Payments**

- (a) Except as permitted under paragraph (b) below, no Obligor shall:
  - (i) repay or prepay any principal amount (or capitalised interest) outstanding under the Facility;
  - (ii) pay any interest or any other amounts payable in connection with the Facility; or
  - (iii) purchase, redeem, defease or discharge any amount outstanding with respect to the Facility.
- (b) Paragraph (a) does not apply to a payment, repayment, prepayment, purchase, redemption, defeasance or discharge which is otherwise permitted under the Intercreditor Agreement.

## **24 INSURANCE UNDERTAKINGS**

### **24.1 General**

The undertakings in this Clause 24 (*Insurance Undertakings*) remain in force on and from the date of this Agreement and throughout the rest of the Security Period except as the Facility Agent, acting with the authorisation of the Majority Lenders (or, where specified, all the Lenders) may otherwise permit.

### **24.2 Maintenance of obligatory insurances**

Each Borrower shall keep the Ship owned by it insured at its expense against:

- (a) fire and usual marine risks (including hull and machinery and/or increased value and excess risks);
- (b) war risks;
- (c) freight, demurrage and defence;
- (d) protection and indemnity risks (including liability for oil pollution for an amount of no less than \$1,000,000,000 and excess war risk P&I cover) on standard Club Rules, covered by a Protection and Indemnity association which is a member of the International Group of Protection and Indemnity Associations (or, if the International Group ceases to exist, any other leading protection and indemnity association or other leading provider of protection and indemnity insurance) (including, without limitation, the proportion (if any) of any collision liability not covered under the terms of the hull cover); and
- (e) any other risks against which the Facility Agent acting on the instructions of the Majority Lenders considers, having regard to practices and other circumstances prevailing at the relevant time, it would be reasonable for that Borrower to insure and which are specified by the Facility Agent (acting on the instructions of the Majority Lenders) by notice to that Borrower.

### **24.3 Terms of obligatory insurances**

Each Borrower shall effect such insurances:

- (a) in dollars;
- (b) in the case of fire and usual marine risks and war risks, in an amount on an agreed value basis at least the greater of:
  - (i) 120 per cent. of the Tranche relating to the Ship owned by it; and
  - (ii) the Market Value of the Ship owned by it;
- (c) in the case of oil pollution liability risks, for an aggregate amount equal to the highest level of cover from time to time available under basic protection and indemnity club entry (for the time being \$1,000,000,000 for oil pollution);

- (d) hull and machinery plus freight interest and hull interest and/or increased value and any other usual marine risks (including excess risks);
- (e) in the case of protection and indemnity risks, in respect of the full tonnage of its Ship;
- (f) on approved terms customary in major marine insurance markets;
- (g) through Approved Brokers and with approved insurance companies and/or underwriters or, in the case of war risks and protection and indemnity risks, in approved war risks and protection and indemnity risks associations; and
- (h) in relation to war risks insurance, extended to cover piracy and terrorism where piracy or, as the case may be, terrorism, are excluded under the fire and usual marine risks insurance.

#### **24.4 Further protections for the Finance Parties**

In addition to the terms set out in Clause 24.3 (*Terms of obligatory insurances*), each Borrower shall procure that the obligatory insurances effected by it shall:

- (a) subject always to paragraph (b), name that Borrower as the sole named insured unless the interest of every other named insured is limited:
  - (i) in respect of any obligatory insurances for hull and machinery and war risks;
    - (A) to any provable out-of-pocket expenses that it has incurred and which form part of any recoverable claim on underwriters; and
    - (B) to any third party liability claims where cover for such claims is provided by the policy (and then only in respect of discharge of any claims made against it); and
  - (ii) in respect of any obligatory insurances for protection and indemnity risks, to any recoveries it is entitled to make by way of reimbursement following discharge of any third party liability claims made specifically against it;

and every other named insured has undertaken in writing to the Security Agent (in such form as it requires, acting on the instructions of the Majority Lenders) that any deductible shall be apportioned between that Borrower and every other named insured in proportion to the gross claims made or paid by each of them and that it shall do all things necessary and provide all documents, evidence and information to enable the Security Agent to collect or recover any moneys which at any time become payable in respect of the obligatory insurances;

- (b) whenever the Facility Agent (acting on the instructions of the Majority Lenders) requires, name (or be amended to name) the Security Agent as additional named insured for its rights and interests, warranted no operational interest and with full waiver of rights of subrogation against the Security Agent, but without the Security Agent being liable to pay (but having the right to pay) premiums, calls or other assessments in respect of such insurance;
- (c) name the Security Agent as loss payee with such directions for payment as the Facility Agent (acting on the instructions of the Majority Lenders) may specify;

- (d) provide that all payments by or on behalf of the insurers under the obligatory insurances to the Security Agent shall be made without set off, counterclaim or deductions or condition whatsoever;
- (e) provide that the obligatory insurances shall be primary without right of contribution from other insurances which may be carried by the Security Agent or any other Finance Party; and
- (f) provide that the Security Agent may make proof of loss if that Borrower fails to do so.

#### **24.5 Renewal of obligatory insurances**

Each Borrower shall:

- (a) at least 7 days before the expiry of any obligatory insurance effected by it:
  - (i) notify the Facility Agent of the Approved Brokers (or other insurers) and any protection and indemnity or war risks association through or with which it proposes to renew that obligatory insurance and of the proposed terms of renewal; and
  - (ii) obtain the Facility Agents' (acting on the instructions of the Majority Lenders) approval to the matters referred to in subparagraph (i) above;
- (b) at least 3 days before the expiry of any obligatory insurance, renew that obligatory insurance in accordance with the Facility Agent's approval pursuant to paragraph (a) above; and
- (c) procure that the Approved Brokers and/or the approved war risks and protection and indemnity associations with which such a renewal is effected latest at the renewal date provide the Facility Agent in writing of the terms and conditions of the renewal.

#### **24.6 Voluntary insurances**

Each Borrower may, at its own option and expense, effect insurances on the Ship owned by it against risk of loss of Earnings on the following terms:

- (a) in dollars;
- (b) on approved terms customary in major marine insurance markets;
- (c) through Approved Brokers and with approved insurance companies and/or underwriters;
- (d) in an amount equal to at least 180 days of hire payable under the Initial Charter applicable to that Ship for the relevant policy year;
- (e) with an upper limit per claim of 180 days of hire (always in excess of any applicable deductible) payable under the Initial Charter applicable to that Ship; and
- (f) subject to market conditions, with a deductible of no more than 14 days of hire payable under the Initial Charter applicable to that Ship for the relevant policy year.

#### **24.7 Copies of policies; letters of undertaking**

Each Borrower shall ensure that the Approved Brokers provide the Security Agent upon its request with:

- (a) *pro forma* copies of all policies relating to the obligatory insurances which they are to effect or renew; and
- (b) a letter or letters or undertaking in standard market form/wording required by the Facility Agent (acting on the instructions of the Majority Lenders) and including undertakings by the Approved Brokers that:
  - (i) they will have endorsed on each policy, immediately upon issue, a loss payable clause and a notice of assignment complying with the provisions of Clause 24.4 (*Further protections for the Finance Parties*);
  - (ii) they will hold such policies, and the benefit of such insurances, to the order of the Security Agent in accordance with such loss payable clause;
  - (iii) they will advise the Security Agent immediately of any material change to the terms of the obligatory insurances;
  - (iv) they will, if they have not received notice of renewal instructions from the relevant Borrower or its agents, notify the Security Agent not less than 14 days before the expiry of the obligatory insurances;
  - (v) if they receive instructions to renew the obligatory insurances, they will promptly notify the Facility Agent of the terms of the instructions;
  - (vi) they will not set off against any sum recoverable in respect of a claim relating to the Ship owned by that Borrower under such obligatory insurances any premiums or other amounts due to them or any other person whether in respect of that Ship or otherwise, they waive any lien on the policies, or any sums received under them, which they might have in respect of such premiums or other amounts and they will not cancel such obligatory insurances by reason of non-payment of such premiums or other amounts; and
  - (vii) they will arrange for a separate policy to be issued in respect of the Ship owned by that Borrower forthwith upon being so requested by the Facility Agent.

#### **24.8 Copies of certificates of entry**

Each Borrower shall ensure that any protection and indemnity and/or war risks associations in which the Ship owned by it is entered provide the Security Agent with:

- (a) a certified copy of the certificate of entry for that Ship;
- (b) a letter or letters of undertaking in such form as may be required by the Facility Agent acting on the instructions of Majority Lenders; and

- (c) a certified copy of each certificate of financial responsibility for pollution by oil or other Environmentally Sensitive Material issued by the relevant certifying authority in relation to that Ship.

#### **24.9 Deposit of original policies**

Each Borrower shall ensure that all policies relating to obligatory insurances effected by it are deposited with the Approved Brokers through which the insurances are effected or renewed.

#### **24.10 Payment of premiums**

Each Borrower shall punctually pay all premiums or other sums payable in respect of the obligatory insurances effected by it and produce all relevant receipts when so required by the Facility Agent (acting on the instructions of the Majority Lenders) or the Security Agent (acting on the instructions of the Facility Agent (acting on the instructions of the Majority Lenders)).

#### **24.11 Guarantees**

Each Borrower shall ensure that any guarantees required by a protection and indemnity or war risks association are promptly issued and shall procure that such guarantee(s) remain(s) in full force and effect.

#### **24.12 Compliance with terms of insurances**

- (a) No Borrower shall do or omit to do (nor permit to be done or not to be done) any act or thing which would or might render any obligatory insurance invalid, void, voidable or unenforceable or render any sum payable under an obligatory insurance repayable in whole or in part.
- (b) Without limiting paragraph (a) above, each Borrower shall unless otherwise approved by the Security Agent (acting on the instructions of the Facility Agent which is acting on the instructions of the Majority Lenders) (such approval not to be unreasonably withheld):
  - (i) take all necessary action and comply with all requirements which may from time to time be applicable to the obligatory insurances, and (without limiting the obligation contained in sub-paragraph (iii) of paragraph (b) of Clause 24.6 (*Copies of policies; letters of undertaking*)) ensure that the obligatory insurances are not made subject to any exclusions or qualifications to which the Facility Agent has not given its prior approval (acting on the instructions of the Lenders);
  - (ii) not make any changes relating to the classification or classification society or manager or operator of the Ship owned by it approved by the underwriters of the obligatory insurances;
  - (iii) make (and promptly supply copies to the Facility Agent of) all quarterly or other voyage declarations which may be required by the protection and indemnity risks association in which the Ship owned by it is entered to maintain cover for trading to the United States of America and Exclusive Economic Zone (as defined in the United States Oil Pollution Act 1990 or any other applicable legislation); and
  - (iv) not employ the Ship owned by it, nor allow it to be employed, otherwise than in conformity with the terms and conditions of the obligatory insurances, without first



obtaining the consent of the insurers and complying with any requirements (as to extra premium or otherwise) which the insurers specify.

**24.13 Alteration to terms of insurances**

No Borrower shall make or agree to any alteration to the terms of any obligatory insurance or waive any right relating to any obligatory insurance.

**24.14 Settlement of claims**

Each Borrower shall:

- (a) not settle, compromise or abandon any claim under any obligatory insurance for Total Loss or for a Major Casualty; and
- (b) do all things necessary and provide all documents, evidence and information to enable the Security Agent to collect or recover any moneys which at any time become payable in respect of the obligatory insurances.

**24.15 Provision of copies of communications**

Each Borrower shall promptly, after the Security Agent's request (acting on the instructions of the Facility Agent which is acting on the instructions of the Majority Lenders), provide the Security Agent with copies of all written communications between that Borrower and:

- (a) the Approved Brokers;
- (b) the approved protection and indemnity and/or war risks associations; and
- (c) the approved insurance companies and/or underwriters,

which relate directly or indirectly to:

- (i) that Borrower's obligations relating to the obligatory insurances including, without limitation, all requisite declarations and payments of additional premiums or calls; and
- (ii) any credit arrangements made between that Borrower and any of the persons referred to in paragraphs (a) or (b) above relating wholly or partly to the effecting or maintenance of the obligatory insurances.

**24.16 Provision of information**

Each Borrower shall promptly provide the Facility Agent (or any persons which it may designate) with any information which the Facility Agent (or any such Prohibited Person) (acting on the instructions of the Majority Lenders) requests for the purpose of:

- (a) obtaining or preparing any report from an independent marine insurance broker as to the adequacy of the obligatory insurances effected or proposed to be effected; and/or
- (b) effecting, maintaining or renewing any such insurances as are referred to in Clause 24.17 (*Mortgagee's interest, additional perils insurances*) or dealing with or considering any matters relating to any such insurances,

and the Borrowers shall, forthwith upon demand, indemnify the Security Agent in respect of all fees and other expenses reasonably incurred by or for the account of the Security Agent in connection with any such report as is referred to in paragraph (a) above.

#### **24.17 Mortgagee's interest and additional perils insurances**

- (a) The Security Agent shall be entitled from time to time to effect, maintain and renew a mortgagee's interest marine insurance and a mortgagee's interest additional perils insurance each in an amount of not less than 110 per cent. of the Loan, on such terms, through such insurers and generally in such manner as the Security Agent acting on the instructions of the Majority Lenders may from time to time consider appropriate.
- (b) The Borrowers shall upon demand fully indemnify the Security Agent in respect of all premiums and other expenses which are reasonably incurred in connection with or with a view to effecting, maintaining or renewing any insurance referred to in paragraph (a) above or dealing with, or considering, any matter arising out of any such insurance.

### **25 GENERAL SHIP UNDERTAKINGS**

#### **25.1 General**

The undertakings in this Clause 25 (*General Ship Undertakings*) remain in force on and from the date of this Agreement and throughout the rest of the Security Period except as the Facility Agent, acting with the authorisation of the Majority Lenders (or, where specified, all the Lenders) may otherwise permit.

#### **25.2 Ships' names and registration**

Each Borrower shall, in respect of the Ship owned by it:

- (a) (subject to sub-clause (c) below) keep that Ship registered in its name under the Approved Flag from time to time at its port of registration;
- (b) not do or allow to be done anything as a result of which such registration might be suspended, cancelled or imperilled;
- (c) not enter into any dual flagging arrangement in respect of that Ship; and
- (d) not change the name of that Ship,

**provided that** any change of flag of a Ship shall be subject to:

- (i) that Ship remaining subject to Security securing the Secured Liabilities created by a first priority or preferred ship mortgage on that Ship and, if appropriate, a first priority deed of covenant collateral to that mortgage (or equivalent first priority Security) on substantially the same terms as the Mortgage on that Ship and on such other terms and in such other form as the Facility Agent, acting with the authorisation of the Lenders, shall approve or require; and
- (ii) the execution of such other documentation amending and supplementing the Finance Documents as the Facility Agent, acting with the authorisation of the Lenders, shall approve or require.

### **25.3 Repair and classification**

Each Borrower shall keep the Ship owned by it in a good and safe condition and state of repair:

- (a) consistent with first class ship ownership and management practice; and
- (b) so as to maintain the Approved Classification free of overdue recommendations and conditions.

### **25.4 Classification society undertaking**

If requested by the Facility Agent (acting on the instructions of the Lenders), each Borrower shall, in respect of the Ship owned by it, instruct the relevant Approved Classification Society (and shall on a best endeavours basis procure that the Approved Classification Society undertakes with the Security Agent):

- (a) to send to the Security Agent, following receipt of a written request from the Security Agent (acting on the instructions of the Facility Agent acting on the instructions of the Majority Lenders), certified true copies of all original class records held by the Approved Classification Society in relation to that Ship;
- (b) to allow the Security Agent (or its agents) (acting on the instructions of the Facility Agent acting on the instructions of the Majority Lenders), at any time and from time to time, to inspect the original class and related records of that Borrower and that Ship at the offices of the Approved Classification Society and to take copies of them;
- (c) to notify the Security Agent immediately in writing if the Approved Classification Society:
  - (i) receives notification from that Borrower or any person that that Ship's Approved Classification Society is to be changed; or
  - (ii) becomes aware of any facts or matters which may result in or have resulted in a change, suspension, discontinuance, withdrawal or expiry of that Ship's class under the rules or terms and conditions of that Borrower or that Ship's membership of the Approved Classification Society;
- (d) following receipt of a written request from the Security Agent (acting on the instructions of the Facility Agent acting on the instructions of the Majority Lenders):
  - (i) to confirm that that Borrower is not in default of any of its contractual obligations or liabilities to the Approved Classification Society, including confirmation that it has paid in full all fees or other charges due and payable to the Approved Classification Society; or
  - (ii) to confirm that that Borrower is in default of any of its contractual obligations or liabilities to the Approved Classification Society, to specify to the Security Agent in reasonable detail the facts and circumstances of such default, the consequences of such default, and any remedy period agreed or allowed by the Approved Classification Society.

## 25.5 Modifications

No Borrower shall make any modification or repairs to, or replacement of, any Ship or equipment installed on it which would or might materially adversely alter the structure, type or performance characteristics of that Ship or materially reduce its value.

## 25.6 Removal and installation of parts

- (a) Subject to paragraph (b) below, no Borrower shall remove any material part of any Ship, or any item of equipment installed on any Ship unless:
- (i) the part or item so removed is forthwith replaced by a suitable part or item which is in the same condition as or better condition than the part or item removed;
  - (ii) the replacement part or item is free from any Security in favour of any person other than the Security Agent; and
  - (iii) the replacement part or item becomes, on installation on that Ship, the property of that Borrower and subject to the security constituted by the Mortgage on that Ship.
- (b) A Borrower may install equipment owned by a third party if the equipment can be removed without any risk of damage to the Ship owned by that Borrower.

## 25.7 Surveys

Each Borrower shall submit the Ship owned by it regularly to all periodic or other surveys which may be required for classification purposes and, if so required by the Facility Agent acting on the instructions of the Majority Lenders, provide the Facility Agent, with copies of all survey reports.

## 25.8 Inspection

- (a) Each Borrower shall permit the Security Agent (acting on the instructions of the Facility Agent which is acting on the instructions of the Majority Lenders) (acting through surveyors or other persons appointed by it for that purpose) to board the Ship owned by it at all reasonable times, after prior written notice and without interfering with the Ship's operation and trade, to inspect its condition or to satisfy themselves about proposed or executed repairs and shall afford all proper facilities for such inspections.
- (b) The cost of all inspections under this Clause 25.8 (*Inspection*) shall be for the account of that Borrower in relation to the Ship owned by it once annually and at any time when an Event of Default has occurred and is continuing.

## 25.9 Prevention of and release from arrest

- (a) Each Borrower shall, in respect of the Ship owned by it, promptly discharge:
- (i) all liabilities which give or may give rise to maritime or possessory liens on or claims enforceable against that Ship, its Earnings or its Insurances;
  - (ii) all Taxes, dues and other amounts charged in respect of that Ship, its Earnings or its Insurances; and

- (iii) all other outgoings whatsoever in respect of that Ship, its Earnings or its Insurances.
- (b) Each Borrower shall as promptly as possible upon receiving notice of the arrest of the Ship owned by it or of its detention in exercise or purported exercise of any lien or claim, take all steps necessary to procure its release by providing bail or otherwise as the circumstances may require.

**25.10 Compliance with laws etc.**

Each Borrower shall:

- (a) comply, or procure compliance with all laws or regulations:
  - (i) relating to its business generally; and
  - (ii) relating to the Ship owned by it, its ownership, employment, operation, management and registration, including, but not limited to, the ISM Code, the ISPS Code, all Environmental Laws, all Sanctions and the laws of the Approved Flag;
- (b) obtain, comply with and do all that is necessary to maintain in full force and effect any Environmental Approvals; and
- (c) without limiting paragraph (a) above, not employ the Ship owned by it nor allow its employment, operation or management in any manner contrary to any law or regulation including but not limited to the ISM Code, the ISPS Code, all Environmental Laws and Sanctions (or which would be contrary to Sanctions if Sanctions were binding on each Transaction Obligor).
- (d) If a Ship is intended to be scrapped during the Security Period, use its best endeavours to take into account social and environmental matters when selecting the recycling yard and to comply with the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships (2009).

**25.11 ISPS Code**

Without limiting paragraph (a) of Clause 25.10 (*Compliance with laws etc.*), each Borrower shall:

- (a) procure that the Ship owned by it and the company responsible for that Ship's compliance with the ISPS Code comply with the ISPS Code; and
- (b) maintain an ISSC for that Ship; and
- (c) notify the Facility Agent immediately in writing of any actual or threatened withdrawal, suspension, cancellation or modification of the ISSC.

**25.12 Sanctions and Ship trading**

- (a) Without limiting Clause 25.10 (*Compliance with laws etc.*), each Borrower shall procure:

- (i) that the Ship owned by it shall not be used by or for the benefit of a Prohibited Person;
- (ii) that such Ship shall not be used in trading in any manner contrary to Sanctions (or which could be contrary to Sanctions, if Sanctions were binding on each Transaction Obligor);
- (iii) that such Ship shall not be traded in any manner which would trigger the operation of any sanctions limitation or exclusion clause (or similar) in the Insurances; and
- (iv) that each charterparty in respect of that Ship shall contain, for the benefit of that Borrower, language which gives effect to the provisions of paragraph (c) of Clause 25.10 (*Compliance with laws etc.*) as regards Sanctions and of this Clause 25.12 (*Sanctions and Ship trading*) and which permits refusal of employment or voyage orders if compliance would result in a breach of Sanctions (or which would result in a breach of Sanctions, if Sanctions were binding on each Transaction Obligor).

#### **25.13 Trading in war zones**

In the event of hostilities in any part of the world (whether war is declared or not), no Borrower shall cause or permit any Ship to enter or trade to any zone which is declared a war zone by any government or by that Ship's war risks insurers unless that Borrower has (at its expense) effected any special, additional or modified insurance cover which War Risks insurers may require.

#### **25.14 Provision of information**

Without prejudice to Clause 21.5 (*Information: miscellaneous*) each Borrower shall, in respect of the Ship owned by it, promptly provide the Facility Agent with any information which it requests (acting on the instructions of any Lender), acting reasonably in the event there is no Event of Default, regarding:

- (a) that Ship, its employment, position and engagements;
- (b) the Earnings and payments and amounts due to its master and crew;
- (c) any expenditure incurred, or likely to be incurred, in connection with the operation, maintenance or repair of that Ship and any payments made by it in respect of that Ship;
- (d) any towages and salvages; and
- (e) its compliance, the Approved Manager's compliance and the compliance of that Ship with the ISM Code and the ISPS Code,

and, upon the Facility Agent's (acting on the instructions of any Lender) request, promptly provide copies of any current Charter relating to that Ship, of any current guarantee of any such Charter, the Ship's Safety Management Certificate and any relevant Document of Compliance.

#### **25.15 Notification of certain events**

Each Borrower shall, in respect of the Ship owned by it, promptly after it becomes aware, notify the Facility Agent by e-mail or fax, confirmed forthwith by letter, of:

- (a) any casualty to that Ship which is or is likely to be or to become a Major Casualty;
- (b) any occurrence as a result of which that Ship has become or is, by the passing of time or otherwise, likely to become a Total Loss;
- (c) any requisition of that Ship for hire;
- (d) any overdue requirement or overdue recommendation made in relation to that Ship by any insurer or classification society or by any competent authority which is not immediately complied with;
- (e) any arrest or detention of that Ship or any exercise or purported exercise of any lien on that Ship or the Earnings;
- (f) any intended dry docking of that Ship;
- (g) any Environmental Claim made against that Borrower or in connection with that Ship, or any Environmental Incident;
- (h) any claim for breach of the ISM Code or the ISPS Code being made against that Borrower, an Approved Manager or otherwise in connection with that Ship; or
- (i) any other matter, event or incident, actual or threatened, the effect of which will or could lead to the ISM Code or the ISPS Code not being complied with;
- (j) the termination of any Initial Charter and/or Substitute Initial Charter; or

and each Borrower shall keep the Facility Agent advised in writing on a regular basis and in such detail as the Facility Agent shall (acting on the instructions of any Lender) reasonably require as to that Borrower's, any such Approved Manager's or any other person's response to any of those events or matters.

**25.16 Restrictions on use, chartering, appointment of managers etc.**

No Borrower shall, in relation to the Ship owned by it:

- (a) let that Ship on demise charter for any period;
- (b) enter into any time, voyage or consecutive voyage charter in respect of that Ship other than a Permitted Charter;
- (c) materially amend, supplement or terminate a Management Agreement (material amendments shall include, without limitation, any amendments to the management fees resulting in an increase to such fees in excess of 5% per annum, duration of the management agreement or terms permitting the termination of such Management Agreement), other than as required in connection with the Merger;
- (d) appoint a manager of that Ship other than the Approved Commercial Manager and the Approved Technical Manager or agree to any alteration to the terms of an Approved Manager's appointment;
- (e) de activate or lay-up that Ship;

- (f) put that Ship into the possession of any person for the purpose of work being done upon it in an amount exceeding or likely to exceed \$1,000,000 (or the equivalent in any other currency) unless that person has first given to the Security Agent (acting on the instructions of the Facility Agent acting on the instructions of the Majority Lenders) and in terms satisfactory to it a written undertaking not to exercise any lien on that Ship or its Earnings for the cost of such work or for any other reason; or
- (g) use that Ship for any other purpose other than as a civil merchant trading vessel.

#### **25.17 Notice of Mortgage**

Each Borrower shall keep the relevant Mortgage registered against the Ship owned by it as a valid first priority or, as the case may be, preferred mortgage, carry on board that Ship a certified copy of the relevant Mortgage and place and maintain in a conspicuous place in the navigation room and the master's cabin of that Ship a framed printed notice stating that that Ship is mortgaged by that Borrower to the Security Agent.

#### **25.18 Sharing of Earnings**

No Borrower shall enter into any agreement or arrangement for the sharing of any Earnings other than for the purposes of this Agreement.

#### **25.19 Notification of compliance**

Each Borrower shall promptly provide the Facility Agent upon its request with evidence (in such form as the Facility Agent requires acting on the instructions of the Majority Lenders) that it is complying with this Clause 25 (*General Ship Undertakings*).

#### **25.20 Charterparty Assignment**

If a Borrower enters into any Assignable Charter (subject to obtaining the prior consent of the Facility Agent in accordance with paragraph (b) of Clause 25.16 (*Restrictions on use, chartering, appointment of managers etc.*)), that Borrower shall, at the request of the Facility Agent (acting on the instructions of the Majority Lenders), execute in favour of the Security Agent a Charterparty Assignment in respect of that Assignable Charter and shall:

- (a) serve notice of that Charterparty Assignment on the relevant charterer and use best endeavours to procure that the charterer acknowledges such notice in such form as the Facility Agent may approve or require, acting on the instructions of the Majority Lenders; and
- (b) deliver to the Facility Agent such other documents in connection with that Charterparty Assignment as the Facility Agent may require (acting on the instructions of the Majority Lenders) (including, without limitation, documents equivalent to those referred to in Schedule 2 (*Conditions Precedent*) in relation to that Borrower and that Charter).

#### **25.21 Dismantling of Ships**

Each Borrower confirms that it will ensure the Ship owned by it is or, if sold to an intermediary with the intention of being scrapped use its best endeavours that it is, recycled at a recycling yard which conducts its recycling business in a socially and environmentally responsible manner, in accordance with the provisions of The Hong Kong International Convention for the



Safe and Environmentally Sound Recycling of Ships, 2009 or, with regards to any EU flagged vessels, the EU Ship Recycling Regulation

## **25.22 IHM**

Each Borrower shall ensure that the Ship owned by it carries an IHM classification from the relevant Approved Classification Society from the date of completion of the first dry docking of that Ship after the date of the Senior Facility Agreement and at all times thereafter and shall promptly deliver to the Facility Agent upon its request a copy of the class report noting the same.

## **26 SECURITY COVER**

### **26.1 Minimum required security cover**

Clause 26.2 (*Provision of additional security; prepayment*) applies if the Facility Agent (acting on the instructions of the Majority Lenders) notifies the Borrowers that:

- (a) the aggregate Market Value of the Ships then subject to a Mortgage; plus
- (b) the net realisable value of additional Security previously provided under this Clause 26 (*Security Cover*),

is below:

- (i) until the second anniversary of the Utilisation Date, 115 per cent. of the aggregate of the Loan and the Senior Loan; **or**
- (ii) on and from the second anniversary of the Utilisation Date, 125 per cent. of the aggregate of the Loan and the Senior Loan.

### **26.2 Provision of additional security; prepayment**

- (a) If the Facility Agent (acting on the instructions of the Majority Lenders) serves a notice on the Borrowers under Clause 26.1 (*Minimum required security cover*), the Borrowers shall, on or before the date falling one Month after the date (the "**Prepayment Date**") on which the Facility Agent's notice is served, prepay such part of the Loan as shall eliminate the shortfall.
- (b) A Borrower may at its discretion, instead of making a prepayment as described in paragraph (a) above, provide, or ensure that a third party has provided, additional security which, in the opinion of the Facility Agent acting on the instructions of the Majority Lenders:
  - (i) has a net realisable value at least equal to the shortfall; and
  - (ii) is documented in such terms as the Facility Agent (acting on the instructions of the Majority Lenders) may approve or require, before the Prepayment Date; and conditional upon such security being provided in such manner, it shall satisfy such prepayment obligation.

### **26.3 Value of additional vessel security**

The net realisable value of any additional security which is provided under Clause 26.2 (*Provision of additional security; prepayment*) and which consists of Security over a vessel shall be the Market Value of the vessel concerned.

### **26.4 Valuations binding**

Any valuation under this Clause 26 (*Security Cover*) shall be binding and conclusive as regards each Borrower.

### **26.5 Provision of information**

- (a) Each Borrower shall as soon as reasonably practicable provide the Facility Agent and any Approved Valuer acting under this Clause 26 (*Security Cover*) with any information which the Facility Agent (acting on the instructions of the Majority Lenders) or Approved Valuer may request for the purposes of the valuation.
- (b) If a Borrower fails to provide the information referred to in paragraph (a) above by the date specified in the request, the valuation may be made on any basis and assumptions which the Approved Valuer or the Facility Agent (acting on the instructions of the Majority Lenders) considers prudent.

### **26.6 Prepayment mechanism**

Any prepayment pursuant to Clause 26.2 (*Provision of additional security; prepayment*) shall be made in accordance with the relevant provisions of Clause 7 (*Prepayment and Cancellation*) and shall be treated as a voluntary prepayment pursuant to Clause 7.4 (*Voluntary prepayment of Loan*).

### **26.7 Provision of valuations**

- (a) The Borrowers shall provide the Facility Agent with the necessary valuations of each Ship and any other vessel over which additional Security has been created in accordance with Clause 26.3 (*Value of additional vessel security*), to enable the Facility Agent (acting on the instructions of the Majority Lenders) to determine the Market Value of that Ship or any other vessel, as follows:
  - (i) at least semi-annually, on the relevant Testing Date;
  - (ii) at the Facility Agent's (acting on the instructions of any Lender) request, quarterly, on each date falling on 30 March and 30 September of each financial year; and
  - (iii) if a mandatory prepayment event has occurred under Clause 7.5 (*Mandatory prepayment on sale or Total Loss*);
- (b) The cost of valuations obtained under sub-paragraphs (i), (ii) and (iii) above shall be borne or reimbursed by the Borrowers;
- (c) The Lenders may at such time or times instruct the Facility Agent to obtain valuations of the Ships other than pursuant to paragraph (a) for the purpose of ascertaining the Market Value of the Ships at such time or times. Any further valuations obtained or provided shall be at the

cost of the Lenders unless an Event of Default has occurred and is continuing at the relevant time in which case the Borrowers acknowledge and agree that the cost of such additional valuations shall be borne or reimbursed by the Borrowers.

## **27 ACCOUNTS, APPLICATION OF EARNINGS AND HEDGE RECEIPTS**

### **27.1 Accounts**

No Borrower may, without the prior consent of the Facility Agent (acting on the instructions of the Lenders), maintain any bank account other than the Accounts.

### **27.2 Payment of Earnings**

Each Borrower shall ensure that:

- (a) subject only to the provisions of the General Assignment to which it is a party, all the Earnings in respect of the Ship owned by it are paid in to its Earnings Account; and
- (b) all Hedge Receipts are paid to the Retention Account.

### **27.3 Monthly Retentions**

The Borrowers shall ensure that, in each calendar month following the Utilisation Date, on such dates as the Facility Agent (acting on the instructions of the Majority Lenders) may from time to time specify, there is transferred to the Retention Account out of the aggregate Earnings received by the Borrowers in their respective Earnings Accounts during the preceding calendar month:

- (a) one-third of the amount of any Repayment Instalment falling due under Clause 6.1 (*Repayment of Loan*) on the next Repayment Date; and
- (b) the relevant fraction of the aggregate amount of interest on the Loan which is payable under this Agreement in respect of any Interest Period then current, reduced by the amount of any corresponding payment from a Hedge Counterparty due to any Borrower under any Hedging Agreement; and
- (c) the relevant fraction of the aggregated net amount which is payable by any Borrower to any Hedge Counterparty under any Hedging Agreement on the next due date for payment of such amount under the relevant Hedging Agreement; and
- (d) the amounts set out in clause 27.3 (*Monthly Retentions*) of the Senior Facility Agreement.

The “**relevant fraction**” is a fraction of which:

- (i) the numerator is one; and
- (ii) the denominator is:
  - (A) the number of months comprised in the relevant then current Interest Period; or

- (B) if the period is shorter, the number of months from the later of the commencement of the relevant current Interest Period or the last due date for payment of interest on the Loan or the relevant part of the Loan to the next due date for payment of interest on the Loan or the relevant part of the Loan under this Agreement.

#### 27.4 Shortfall in Earnings

- (a) If the aggregate of the credit balance on each Earnings Account is insufficient in any calendar month for the required amount to be transferred to the Retention Account under Clause 27.3 (*Monthly retentions*), the Borrowers shall make up the amount of the insufficiency on demand (acting on the instructions of the Majority Lenders) from the Facility Agent.
- (b) Without prejudicing the Facility Agent's right to make such demand at any time (if so instructed by the Majority Lenders), the Facility Agent may, if so authorised by the Majority Lenders, permit the Borrowers to make up all or part of the insufficiency by increasing the amount of any transfer under Clause 27.3 (*Monthly retentions*) from the Earnings received in the next or subsequent calendar months.

#### 27.5 Release of Earnings

Subject to the terms of the General Assignment, any amount standing to the credit of an Earnings Account shall be freely available to the Borrower owning that Earnings Account for the purpose of the payment of operating expenses incurred in the ordinary course of owning, operating, crewing, victualling, maintaining, insuring, managing and repairing the Ship owned by it, for its administration and for the payment of dividends pursuant to Clause 23.18 (*Dividends*) **Provided that** the Borrowers are in compliance with Clauses 22.1 (*Borrowers' minimum liquidity*) and 27.3 (*Monthly retentions*) and no Event of Default has occurred or is continuing.

#### 27.6 Application of retentions

- (a) Subject to paragraph (b) and (c) below, the Security Agent has sole signing rights in relation to the Retention Account.
- (b) Until an Event of Default occurs, the Borrowers shall instruct the Account Bank to release to the Facility Agent, on each Repayment Date and on each Interest Payment Date, for distribution to the Finance Parties in accordance with Clause 35.2 (*Distributions by the Facility Agent*) so much of the then balance on the Retention Account as equals:
- (i) any Repayment Instalment due on that Repayment Date;
  - (ii) the amount of interest payable on that Interest Payment Date; and
  - (iii) the amounts set out in clause 27.6 (*Application of Retentions*) of the Senior Facility Agreement,

in discharge of, amongst other things, the Borrowers' liability for that Repayment Instalment and that interest.

For the avoidance of doubt, the Borrowers rights under this Clause are limited to instructing the Account Bank to release funds to the Facility Agent and the Borrowers' right to instruct the

Account Bank to effect such release does not afford the Borrowers with signing rights in relation to the Retention Account.

- (c) Until an Event of Default occurs, the Borrowers shall instruct the Account Bank to release to any Hedge Counterparty:
- (i) the amount payable by any Borrower to any Hedge Counterparty under any Hedging Agreement on each Interest Payment Date; and
  - (ii) the amount of any Hedging Prepayment Proceeds paid into the Retention Account during the Interest Period ending on that date,

in discharge of the Borrowers' liability for that amount under any Hedging Agreement or its prepayment obligation under Clause 7.6 (*Mandatory prepayment of Hedging Prepayment Proceeds*) as the case may be.

For the avoidance of doubt, the Borrowers rights under this Clause are limited to instructing the Account Bank to release funds to any Hedge Counterparty and the Borrowers' right to instruct the Account Bank to effect such release does not afford the Borrowers with signing rights in relation to the Retention Account.

#### **27.7 Interest accrued on Retention Account**

Any credit balance on the Retention Account shall bear interest at the rate from time to time offered by the Account Bank to its customers for dollar deposits of similar amounts and for periods similar to those for which such balances appear to the Account Bank likely to remain on the Retention Account.

#### **27.8 Release of accrued interest**

Interest accruing under Clause 27.7 (*Interest accrued on Retention Account*) shall be credited to the Retention Account and, to the extent not applied previously pursuant to Clause 27.5 (*Application of retentions*), shall be released to the Borrowers at the end of the Security Period.

#### **27.9 Location of Accounts**

Each Borrower shall promptly:

- (a) comply with any requirement of the Facility Agent (acting on the instructions of the Majority Lenders) as to the location or relocation of its Accounts (or either of them); and
- (b) execute any documents which the Facility Agent (acting on the instructions of the Majority Lenders) specifies to create or maintain in favour of the Security Agent Security over (and/or rights of set-off, consolidation or other rights in relation to) any of the Accounts.

### **28 EVENTS OF DEFAULT**

#### **28.1 General**

Each of the events or circumstances set out in this Clause 28 (*Events of Default*) is an Event of Default except for Clause 28.19 (*Acceleration*) and Clause 28.20 (*Enforcement of security*).

## **28.2 Non-payment**

A Transaction Obligor (other than an Approved Manager) does not pay on the due date any amount payable pursuant to a Finance Document at the place at and in the currency in which it is expressed to be payable unless:

- (a) payment is made within 1 Business Day; or
- (b) its failure to pay is caused by:
  - (i) administrative or technical error; or
  - (ii) a Disruption Event; and
  - (iii) payment is made within 3 Business Days.

## **28.3 Specific obligations**

A breach occurs of Clause 4.4 (*Waiver of conditions precedent*), Clause 20.33 (*Sanctions*), Clause 22 (*Financial Covenants*), Clause 23.11 (*Title*), Clause 23.12 (*Negative pledge*), Clause 23.20 (*Unlawfulness, invalidity and ranking; Security imperilled*), Clause 23.30 (*AIF and AIFM*), Clause 23.31 (*Anti-Bribery and Corruption Laws*), Clause 23.33 (*Anti-Money Laundering Laws*) Clause 24.2 (*Maintenance of obligatory insurances*), Clause 24.3 (*Terms of obligatory insurances*), Clause 24.5 (*Renewal of obligatory insurances*), Clause 25.12 (*Sanctions and Ship trading*) or Clause 26 (*Security Cover*).

## **28.4 Other obligations**

- (a) A Transaction Obligor does not comply with any provision of the Finance Documents to which it is a party (other than those referred to in Clause 28.2 (*Non-payment*) and Clause 28.3 (*Specific obligations*)).
- (b) No Event of Default under paragraph (a) above will occur if the failure to comply is capable of remedy and is remedied within 10 Business Days of the Facility Agent giving notice to the Borrowers or (if earlier) any Transaction Obligor becoming aware of the failure to comply.

## **28.5 Misrepresentation**

Any representation or statement made or deemed to be made by a Transaction Obligor in the Finance Documents or any other document delivered by or on behalf of any Transaction Obligor under or in connection with any Finance Document is or proves to have been incorrect or misleading when made or deemed to be made.

## **28.6 Cross default**

- (a) Any Financial Indebtedness of any Transaction Obligor (other than an Approved Manager) or any member of the Group is not paid when due nor within any originally applicable grace period.
- (b) Subject to paragraph (e) below, any Financial Indebtedness of any Transaction Obligor (other than an Approved Manager) or any member of the Group is declared to be or otherwise

becomes due and payable prior to its specified maturity as a result of an event of default (however described).

- (c) Subject to paragraph (e) below, any commitment for any Financial Indebtedness of any Transaction Obligor (other than an Approved Manager) or any member of the Group is cancelled or suspended by a creditor of any Transaction Obligor (other than an Approved Manager) or any member of the Group as a result of an event of default (however described).
- (d) Subject to paragraph (e) below, any creditor of any Transaction Obligor (other than an Approved Manager) or any member of the Group becomes entitled to declare any Financial Indebtedness of any Transaction Obligor (other than an Approved Manager) or any member of the Group due and payable prior to its specified maturity as a result of an event of default (however described).
- (e) An Event of Default under paragraphs (a), (b), (c) and (d) above in respect of a person other than a Borrower will only occur if the event triggering any of the circumstances referred to in such paragraphs constitutes under the financing agreement pursuant to which such Financial Indebtedness has been incurred (i) a payment default, (ii) an event of default as a result of non-compliance with the financial covenants and (iii) an event of default as a result of breach of the security cover ratio required to be maintained under that financing agreement, in each case however described.

## 28.7 Insolvency

- (a) A Transaction Obligor (other than an Approved Manager) or any member of the Group:
  - (i) is unable or admits inability to pay its debts as they fall due;
  - (ii) is deemed to, or is declared to, be unable to pay its debts under applicable law;
  - (iii) suspends or threatens to suspend making payments on any of its debts; or
  - (iv) by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors (including the Finance Parties) with a view to rescheduling, any of its indebtedness **Provided that** the existence or the entering of such negotiations or as a result of such negotiations the entering into any agreement with one or more of its creditors (including the Finance Parties) shall not constitute an Event of Default under this Clause 28.7 if (A) such Transaction Obligor or member of the Group has notified the Facility Agent in writing of his intention to enter into such negotiations with one or more of its creditors and (B) an officer of each of the Borrowers and the Guarantors confirms in writing to the Facility Agent that the Borrowers will be able to cover the Debt Service for the next six-month period and in the event that such confirmation is not provided within 3 Business Days from the notice to the Facility Agent or the Facility Agent becoming aware of the existence of such negotiations, the Borrowers undertake to commence negotiations with the Lenders in good faith with a view to amending the terms of this Agreement in a manner acceptable to the Facility Agent (acting on the instructions of the Lenders).
- (b) The value of the assets of any Transaction Obligor (other than an Approved Manager) or any member of the Group is less than its liabilities (taking into account contingent and prospective liabilities).

- (c) A moratorium is declared in respect of any indebtedness of any Transaction Obligor (other than an Approved Manager) or any member of the Group. If a moratorium occurs, the ending of the moratorium will not remedy any Event of Default caused by that moratorium.

#### **28.8 Insolvency proceedings**

- (a) Any corporate action, legal proceedings or other procedure or step is taken in relation to:
- (i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any Transaction Obligor (other than an Approved Manager) or any member of the Group other than a solvent liquidation or reorganisation of any member of the Group which is not a Transaction Obligor;
  - (ii) a composition, compromise, assignment or arrangement with any creditor of any Transaction Obligor (other than an Approved Manager) or any member of the Group;
  - (iii) the appointment of a liquidator (other than in respect of a solvent liquidation of a member of the Group which is not a Transaction Obligor), receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of any Transaction Obligor (other than an Approved Manager) or any member of the Group or any of its assets; or
  - (iv) enforcement of any Security over any assets of any Transaction Obligor (other than an Approved Manager) or any member of the Group,

or any analogous procedure or step is taken in any jurisdiction.

- (b) Paragraph (a) above shall not apply to any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within 21 days of commencement (or such other longer period as the Facility Agent may agree).

#### **28.9 Creditors' process**

Any expropriation, attachment, sequestration, distress or execution (or any analogous process in any jurisdiction) affects any asset or assets of a Transaction Obligor (other than an Approved Manager) or a member of the Group having an aggregate value of \$800,000 (other than an arrest or detention of a Ship referred to in Clause 28.13 (*Arrest*)) and is not discharged within 14 days.

#### **28.10 Unlawfulness, invalidity and ranking**

- (a) It is or becomes unlawful for a Transaction Obligor to perform any of its obligations under the Finance Documents.
- (b) Any obligation of a Transaction Obligor under the Finance Documents is not or ceases to be legal, valid, binding or enforceable.
- (c) Any Finance Document ceases to be in full force and effect or to be continuing or is or purports to be determined or any Transaction Security is alleged by a party to it (other than a Finance Party) to be ineffective or any subordination created under the Intercreditor Agreement ceases to be legal, valid, binding, enforceable or effective.



- (d) Any Transaction Security proves to have ranked after, or loses its priority to, any other Security or any subordination created under the Intercreditor Agreement is or becomes unlawful.

**28.11 Security imperilled**

Any Security created or intended to be created by a Finance Document is in any way imperilled or in jeopardy.

**28.12 Cessation of business**

Any Transaction Obligor suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or a material part of its business.

**28.13 Arrest**

Any arrest of a Ship or its detention in the exercise or the purported exercise of any lien or claim unless it is redelivered to the full control of the relevant Borrower within 30 days (or such other longer period as the Facility Agent may agree) of such arrest or detention.

**28.14 Expropriation**

The authority or ability of any Transaction Obligor to conduct its business is limited or wholly or substantially curtailed by any seizure, expropriation, nationalisation, intervention, restriction or other action by or on behalf of any governmental, regulatory or other authority or other person in relation to any Transaction Obligor or any of its assets other than:

- (a) an arrest or detention of a Ship referred to in Clause 28.13 (*Arrest*); or
- (b) any Requisition.

**28.15 Repudiation and rescission of agreements**

A Transaction Obligor (or any other relevant party) rescinds or purports to rescind or repudiates or purports to repudiate a Transaction Document (excluding a Charter) or any of the Transaction Security or evidences an intention to rescind or repudiate a Transaction Document or any Transaction Security.

**28.16 Litigation**

Any litigation, arbitration or administrative proceedings or investigations of, or before, any court, arbitral body or agency are started or threatened, or any judgment or order of a court, arbitral body or agency is made, in relation to any of the Transaction Documents or the transactions contemplated in any of the Transaction Documents or its assets which has or is reasonably likely to have a Material Adverse Effect.

**28.17 Material adverse change**

Any event or circumstance occurs which has or is reasonably likely to have a Material Adverse Effect.

### 28.18 Termination of Initial Charters or Assignable Charters

- (a) If any of the Initial Charters or any Assignable Charter is frustrated, terminated (except by mere effluxion of time or in the case of Total Loss of a Ship), cancelled or rescinded or purported to be cancelled or rescinded or the Ship subject to that Initial Charter or Assignable Charter is withdrawn from service under that Initial Charter or Assignable Charter before the last day of the Security Period by the Borrower.
- (b) No Event of Default under paragraph (a) above will be triggered if, as soon as possible after (and in any event within 60 days after) such cancellation, rescission, termination or withdrawal the Borrower owning that Ship has entered into an approved charter commitment (a "**Replacement Charter**") in respect of that Ship on terms (including, without limitation, as to the tenor, charter hire and credit standing of the charterer) acceptable to the Facility Agent in its absolute discretion and, forthwith after the entry into such Replacement Charter, the Borrower owning that Ship has granted in favour of the Security Agent a Charterparty Assignment in respect of such Replacement Charter.

### 28.19 Acceleration

On and at any time after the occurrence of an Event of Default which is continuing the Facility Agent shall if so directed by the Majority Lenders:

- (a) by notice to the Borrowers:
  - (i) cancel the Total Commitments, whereupon they shall immediately be cancelled;
  - (ii) declare that all or part of the Loan, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents be immediately due and payable, whereupon it shall become immediately due and payable; and/or
  - (iii) declare that all or part of the Loan be payable on demand, whereupon it shall immediately become payable on demand by the Facility Agent acting on the instructions of the Majority Lenders; and/or
- (b) exercise or direct the Security Agent to exercise any or all of its rights, remedies, powers or discretions under the Finance Documents, including the Intercreditor Agreement,

and the Facility Agent may serve notices under sub-paragraphs (i), (ii) or (iii) of paragraph (a) above simultaneously or on different dates and any Servicing Party may take any action referred to in paragraph (b) above or Clause 28.20 (*Enforcement of security*) if no such notice is served or simultaneously with or at any time after the service of any of such notice, provided that if no direction is given by the Majority Lenders the Facility Agent shall not be obliged to take any action.

### 28.20 Enforcement of security

On and at any time after the occurrence of an Event of Default the Security Agent shall if so directed by the Majority Lenders, take any action which, as a result of the Event of Default or any notice served under Clause 28.19 (*Acceleration*), the Security Agent is entitled to take under any Finance Document or any applicable law or regulation, provided that if no direction is given by the Majority Lenders the Facility Agent shall not be obliged to take any action.

## SECTION 9

### CHANGES TO PARTIES

#### 29 CHANGES TO THE LENDERS AND HEDGE COUNTERPARTIES

##### 29.1 Assignments and transfers by the Lenders

Subject to this Clause 29 (*Changes to the Lenders*), including Clause 29.11 (*Permitted Debt Purchase Transactions*), a Lender (the "**Existing Lender**") may:

- (a) assign any of its rights; or
- (b) transfer by novation any of its rights and obligations,

under the Finance Documents to another bank or financial institution or to a trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets (the "**New Lender**").

##### 29.2 Conditions of assignment or transfer

- (a) The Borrowers consent is not required for an assignment or transfer by an Existing Lender.
- (b) Other than in the case of an assignment permitted by Clause 29.11 (*Permitted Debt Purchase Transactions*), an assignment will only be effective on:
  - (i) receipt by the Facility Agent (whether in the Assignment Agreement or otherwise) of written confirmation from the New Lender (in form and substance satisfactory to the Facility Agent) that the New Lender will assume the same obligations to the other Secured Parties as it would have been under if it had been an Original Lender;
  - (ii) the New Lender entering into documentation required for it to accede as a party to the Intercreditor Agreement; and
  - (iii) performance by the Facility Agent of all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to such assignment to a New Lender, the completion of which the Facility Agent shall promptly notify to the Existing Lender and the New Lender.
- (c) Each Obligor on behalf of itself and each Transaction Obligor agrees that all rights and interests (present, future or contingent) which the Existing Lender has under or by virtue of the Finance Documents are assigned to the New Lender absolutely, free of any defects in the Existing Lender's title and of any rights or equities which the Borrower or any other Transaction Obligor had against the Existing Lender.
- (d) A transfer will only be effective if the New Lender enters into the documentation required for it to accede as a party to the Intercreditor Agreement and if the procedure set out in Clause 29.5 (*Procedure for transfer*) is complied with.
- (e) If:

- (i) a Lender assigns or transfers any of its rights or obligations under the Finance Documents or changes its Facility Office; and
- (ii) as a result of circumstances existing at the date the assignment, transfer or change occurs, a Transaction Obligor would be obliged to make a payment to the New Lender or Lender acting through its new Facility Office under Clause 12 (*Tax Gross Up and Indemnities*) or under that clause as incorporated by reference or in full in any other Finance Document or Clause 13 (*Increased Costs*),

then the New Lender or Lender acting through its new Facility Office is only entitled to receive payment under those Clauses to the same extent as the Existing Lender or Lender acting through its previous Facility Office would have been if the assignment, transfer or change had not occurred. This paragraph (e) shall not apply in respect of an assignment or transfer made in the ordinary course of the primary syndication of the Facility or in connection with a Relevant Retrenching.

- (f) Each New Lender, by executing the relevant Transfer Certificate or Assignment Agreement, confirms, for the avoidance of doubt, that the Facility Agent has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the requisite Lender or Lenders in accordance with this Agreement on or prior to the date on which the transfer or assignment becomes effective in accordance with this Agreement and that it is bound by that decision to the same extent as the Existing Lender would have been had it remained a Lender.

### **29.3 Assignment or transfer fee**

The New Lender shall, on the date upon which an assignment or transfer takes effect, pay to the Facility Agent (for its own account) a fee of \$5,000.

### **29.4 Limitation of responsibility of Existing Lenders**

- (a) Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:
  - (i) the legality, validity, effectiveness, adequacy or enforceability of the Transaction Documents, the Transaction Security or any other documents;
  - (ii) the financial condition of any Transaction Obligor;
  - (iii) the performance and observance by any Transaction Obligor of its obligations under the Transaction Documents or any other documents; or
  - (iv) the accuracy of any statements (whether written or oral) made in or in connection with any Transaction Document or any other document,

and any representations or warranties implied by law are excluded.

- (b) Each New Lender confirms to the Existing Lender and the other Finance Parties and the Secured Parties that it:
  - (i) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of each Transaction Obligor and its

related entities in connection with its participation in this Agreement and has not relied exclusively on any information provided to it by the Existing Lender or any other Finance Party in connection with any Transaction Document or the Transaction Security; and

- (ii) will continue to make its own independent appraisal of the creditworthiness of each Transaction Obligor and its related entities throughout the Security Period.
- (c) Nothing in any Finance Document obliges an Existing Lender to:
- (i) accept a re-transfer or re-assignment from a New Lender of any of the rights and obligations assigned or transferred under this Clause 29 (*Changes to the Lenders*); or
  - (ii) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by any Transaction Obligor of its obligations under the Transaction Documents or otherwise.

#### **29.5 Procedure for transfer**

- (a) Subject to the conditions set out in Clause 29.2 (*Conditions of assignment or transfer*), a transfer is effected in accordance with paragraph (c) below when the Facility Agent executes an otherwise duly completed Transfer Certificate delivered to it by the Existing Lender and the New Lender. The Facility Agent shall, subject to paragraph (b) below as soon as reasonably practicable after receipt by it of a duly completed Transfer Certificate appearing on its face to comply with this Agreement and delivered in accordance with this Agreement, execute that Transfer Certificate.
- (b) The Facility Agent shall only be obliged to execute a Transfer Certificate delivered to it by the Existing Lender and the New Lender once it is satisfied in its sole discretion that it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to the transfer to such New Lender.
- (c) Subject to Clause 29.10 (*Pro rata interest settlement*), on the Transfer Date:
  - (i) to the extent that in the Transfer Certificate the Existing Lender seeks to transfer by novation its rights and obligations under the Finance Documents and in respect of the Transaction Security, each of the Transaction Obligors and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and in respect of the Transaction Security and their respective rights against one another under the Finance Documents and in respect of the Transaction Security shall be cancelled (being the “**Discharged Rights and Obligations**”);
  - (ii) each of the Transaction Obligors and the New Lender shall assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights and Obligations only insofar as that Transaction Obligor and the New Lender have assumed and/or acquired the same in place of that Transaction Obligor and the Existing Lender;
  - (iii) the Facility Agent, the Security Agent, the Arranger, the New Lender and other Lenders shall acquire the same rights and assume the same obligations between themselves and in respect of the Transaction Security as they would have acquired and assumed

had the New Lender been an Original Lender with the rights and/or obligations acquired or assumed by it as a result of the transfer and to that extent the Facility Agent, the Security Agent, the Arranger and the Existing Lenders shall each be released from further obligations to each other under the Finance Documents; and

(iv) the New Lender shall become a Party as a “Lender”.

#### **29.6 Procedure for assignment**

- (a) Subject to the conditions set out in Clause 29.2 (*Conditions of assignment or transfer*) an assignment may be effected in accordance with paragraph (b) below when the Facility Agent executes an otherwise duly completed Assignment Agreement delivered to it by the Existing Lender and the New Lender. The Facility Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Assignment Agreement appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Assignment Agreement.
- (b) The Facility Agent shall only be obliged to execute an Assignment Agreement delivered to it by the Existing Lender and the New Lender once it is satisfied in its sole discretion it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to the assignment to such New Lender.

Subject to Clause 29.10 (*Pro rata interest settlement*), on the Transfer Date:

- (i) the Existing Lender will assign absolutely to the New Lender its rights under the Finance Documents and in respect of the Transaction Security expressed to be the subject of the assignment in the Assignment Agreement;
- (ii) the Existing Lender will be released from the obligations (the “**Relevant Obligations**”) expressed to be the subject of the release in the Assignment Agreement (and any corresponding obligations by which it is bound in respect of the Transaction Security); and
- (iii) the New Lender shall become a Party as a “Lender” and will be bound by obligations equivalent to the Relevant Obligations.
- (c) Lenders may utilise procedures other than those set out in this Clause 29.6 (*Procedure for assignment*) to assign their rights under the Finance Documents (but not, without the consent of the relevant Transaction Obligor or unless in accordance with Clause 29.5 (*Procedure for transfer*), to obtain a release by that Transaction Obligor from the obligations owed to that Transaction Obligor by the Lenders nor the assumption of equivalent obligations by a New Lender) **provided that** they comply with the conditions set out in Clause 29.2 (*Conditions of assignment or transfer*).

#### **29.7 Copy of Transfer Certificate or Assignment Agreement to Borrowers**

The Facility Agent shall, as soon as reasonably practicable after it has executed a Transfer Certificate or an Assignment Agreement (and in any event no later than three Business Days of execution), send to the Borrowers a copy of that Transfer Certificate or Assignment Agreement.

## 29.8 Additional Hedge Counterparties

- (a) A Lender may request that it or another Lender or an Affiliate of a Lender or another bank or financial institution becomes an Additional Hedge Counterparty, with the prior approval of the Lenders and (in the case of a request by a Lender) the Borrowers, by delivering to the Facility Agent a duly executed Creditor Accession Undertaking pursuant to clause 29.8 (*Change of Hedge Counterparty*) of the Intercreditor Agreement.
- (b) Any party which becomes a party to the Intercreditor Agreement as a Hedge Counterparty shall, at the same time, become a Party to this Agreement as a "Hedge Counterparty" in accordance with clause 16.3 (*Change of Hedge Counterparty*) of the Intercreditor Agreement.

## 29.9 Security over Lenders' rights

In addition to the other rights provided to Lenders under this Clause 29 (*Changes to the Lenders*), each Lender may without consulting with or obtaining consent from any Transaction Obligor, at any time charge, assign or otherwise create Security in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of that Lender including, without limitation:

- (a) any charge, assignment or other Security to secure obligations to a federal reserve or central bank; and
- (b) any charge, assignment or other Security granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities,

except that no such charge, assignment or Security shall:

- (i) release a Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or Security for the Lender as a party to any of the Finance Documents; or
- (ii) require any payments to be made by a Transaction Obligor other than or in excess of, or grant to any person any more extensive rights than, those required to be made or granted to the relevant Lender under the Finance Documents.

## 29.10 Pro rata interest settlement

- (a) If the Facility Agent has notified the Lenders that it is able to distribute interest payments on a "*pro rata* basis" to Existing Lenders and New Lenders then (in respect of any transfer pursuant to Clause 29.5 (*Procedure for transfer*) or any assignment pursuant to Clause 29.6 (*Procedure for assignment*) the Transfer Date of which, in each case, is after the date of such notification and is not on the last day of an Interest Period):
  - (i) any interest or fees in respect of the relevant participation which are expressed to accrue by reference to the lapse of time shall continue to accrue in favour of the Existing Lender up to but excluding the Transfer Date ("**Accrued Amounts**") and shall become due and payable to the Existing Lender (without further interest accruing on them) on the last day of the current Interest Period (or, if the Interest Period is longer

than six Months, on the next of the dates which falls at six Monthly intervals after the first day of that Interest Period); and

- (ii) the rights assigned or transferred by the Existing Lender will not include the right to the Accrued Amounts, so that, for the avoidance of doubt:
  - (A) when the Accrued Amounts become payable, those Accrued Amounts will be payable to the Existing Lender; and
  - (B) the amount payable to the New Lender on that date will be the amount which would, but for the application of this Clause 29.10 (*Pro rata interest settlement*), have been payable to it on that date, but after deduction of the Accrued Amounts.
- (b) In this Clause 29.10 (*Pro rata interest settlement*) references to "Interest Period" shall be construed to include a reference to any other period for accrual of fees.
- (c) An Existing Lender which retains the right to the Accrued Amounts pursuant to this Clause 29.10 (*Pro rata interest settlement*) but which does not have a Commitment shall be deemed not to be a Lender for the purposes of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve any request for a consent, waiver, amendment or other vote of Lenders under the Finance Documents.

#### **29.11 Permitted Debt Purchase Transactions**

- (a) No Obligor shall, and shall procure that no member of the Group shall (i) enter into any Debt Purchase Transaction other than in accordance with this Clause 29.11, or (ii) be a Lender under a Debt Purchase Transaction.
- (b) A Borrower may purchase by way of assignment, pursuant to this Clause 29, a participation in the Loan in respect of which it is an obligor and any related Commitment where:
  - (i) such purchase is made using one of the processes set out at paragraphs (c) and (d) below;
  - (ii) the Borrower has certified that such purchase is made at a time when no Default is continuing; and
  - (iii) the consideration for such purchase is funded from funds which have been raised by the Obligors in the capital markets for general corporate purposes (including for the repayment of debt) or otherwise funds raised from lenders for the purposes of financing such purchase, provided that in the case of any financing, (x) the Senior Facility Agent will be provided with a confirmation from the Obligors and the Facility Agent that any such lender or lenders providing the financing will enter into the Intercreditor Agreement (with appropriate changes as may be required based on the structure of the financing) pursuant to the terms set out in clause 16 (*Changes to the Parties*) thereof, and (y) the terms of such financing are, in the reasonable opinion of the Senior Facility Agent acting on the instructions of the Senior Lenders (which instruction shall not be unreasonably withheld or delayed), materially no less favourable to the Senior Lenders than the terms of this Agreement.



(c)

- (i) A Debt Purchase Transaction referred to in paragraph (b) above may be entered into pursuant to a solicitation process (a "**Solicitation Process**") which is carried out as follows.
- (ii) Prior to 11.00 am on a given Business Day (the "**Solicitation Day**") the Borrower or a financial institution acting on its behalf (the "**Purchase Agent**") will approach at the same time each Lender which participates in the Loan to enable them to offer to sell to the relevant Borrower an amount of their participation in the Loan. Any Lender wishing to make such an offer (a "**Soliciting Lender**") shall, by 11.00 am on the fifth (5<sup>th</sup>) Business Day following such Solicitation Day, communicate to the Purchase Agent details of the amount of its participations it is offering to sell and the price at which it is offering to sell such participations. Any such offer shall be irrevocable until 11.00 am on the seventh (7<sup>th</sup>) Business Day following such Solicitation Day and shall be capable of acceptance by the relevant Borrower on or before such time by communicating its acceptance in writing to the Purchase Agent or, if it is the Purchase Agent, the relevant Lenders. Prior to the acceptance of any such offer, the relevant Borrower or the Purchase Agent shall provide any Lender which is not a Soliciting Lender (a "**Matching Lender**") with a right to purchase the relevant participations in the Loan at the price offered by the Soliciting Lenders under the Solicitation Process (the "**Right to Purchase**"). A Matching Lender shall either elect to exercise the Right to Purchase by sending a written confirmation to the relevant Borrower and/or Purchase Agent within 10 Business Days of the receipt of the Right to Purchase, or confirm in writing that it does not wish to purchase the relevant participations in the Loan (the "**Matching Lender Election**"). The Purchase Agent (if someone other than the Borrower) will communicate to the relevant Soliciting Lenders which offers have been accepted, or whether the Right to Purchase has been exercised by any Matching Lender, by 12 noon on the first Business Day following the Matching Lender Election. In any event by 5.00 pm on the fifth Business Day following the Matching Lender Election, the Borrowers shall notify the Agent of the amounts of the participations purchased through the relevant Solicitation Process, the identity of the purchaser, and the average price paid for the purchase of participations in the Facility. The Agent shall promptly disclose such information to the Lenders.
- (iii) Any purchase of participations in the Loan pursuant to a Solicitation Process shall be completed and settled (A) on or before the tenth Business Day following the Matching Lender Election to the extent such purchaser is a Matching Lender, as such period may be extended by agreement between the Soliciting Lender and the Matching Lender, and (B) where the purchaser is not a Matching Lender, on a time period as agreed between the applicable Borrower or Purchase Agent and the Soliciting Lender.
- (iv) Subject to the rights of any Matching Lender in respect of the Right to Purchase, in accepting any offers made pursuant to a Solicitation Process the Borrowers shall be free to select which offers and in which amounts it accepts but on the basis that in relation to a participation in Loan it accepts offers in inverse order of the price offered (with the offer or offers at the lowest price being accepted first) and that if in respect of participations in the Loan it receives two or more offers at the same price it shall only accept such offers on a *pro rata* basis.

- (v) In the event that more than one Matching Lender exercises the Right to Purchase, such Matching Lenders shall purchase the participations on offer on a *pro rata* basis.
- (d) In relation to any Debt Purchase Transaction entered into by the Borrower pursuant to this Clause 29.11, notwithstanding any other term of this Agreement or the other Finance Documents:
  - (i) on completion of the relevant assignment pursuant to Clause 29 (*Changes to the Lenders*), the portions of the Loan to which it relates shall be extinguished and any related Repayment Instalments will be reduced pro-rata accordingly;
  - (ii) such Debt Purchase Transaction and the related extinguishment referred to in paragraph (b) above shall constitute a prepayment of the Facility and be subject to the prepayment fee in Clause 11.2 (*Prepayment Fee*) if applicable at such time;
  - (iii) the Borrower which is the assignee shall be deemed to be an entity which fulfils the requirements of Clause 29.1 (*Assignments and transfers by the Lenders*) to be a New Lender;
  - (iv) no member of the Group shall be deemed to be in breach of any provision of Clause 23 (*General Undertakings*) solely by reason of such Debt Purchase Transaction;
  - (v) Clause 34 (*Sharing among the Finance Parties*) shall not be applicable to the consideration paid under such Debt Purchase Transaction; and
  - (vi) for the avoidance of doubt, any extinguishment of any part of the Loan shall not affect any amendment or waiver which prior to such extinguishment had been approved by or on behalf of all of the Lenders or the Majority Lenders (as the case may be) in accordance with this Agreement.

#### **29.12 Disenfranchisement of Sponsor Affiliates**

- (a) For so long as a Sponsor Affiliate:
  - (i) beneficially owns a Commitment; or
  - (ii) has entered into a sub-participation agreement relating to a Commitment or other agreement or arrangement having a substantially similar economic effect and such agreement or arrangement has not been terminated;  
in ascertaining:
    - (A) the Majority Lenders; or
    - (B) whether:
      - (1) any given percentage (including, for the avoidance of doubt, unanimity) of the Total Commitments; or
      - (2) the agreement of any specified group of Lenders,

has been obtained to approve any request for a consent, waiver, amendment or other vote under the Finance Documents such Commitment shall be deemed to be zero and such Sponsor Affiliate or the person with whom it has entered into such sub-participation, other agreement or arrangement shall be deemed not to be a Lender for the purposes of paragraphs (A) and (B) above (unless in the case of a person not being a Sponsor Affiliate it is a Lender by virtue otherwise than by beneficially owning the relevant Commitment).

- (b) Each Lender shall, unless such Debt Purchase Transaction is an assignment or transfer, promptly notify the Agent in writing if it knowingly enters into a Debt Purchase Transaction with a Sponsor Affiliate (a "**Notifiable Debt Purchase Transaction**").
- (c) A Lender shall promptly notify the Agent if a Notifiable Debt Purchase Transaction to which it is a party is terminated or ceases to be with a Sponsor Affiliate.
- (d) Each Sponsor Affiliate that is a Lender agrees that:
  - (i) in relation to any meeting or conference call to which all the Lenders are invited to attend or participate, it shall not attend or participate in the same or be entitled to receive the agenda or any minutes of the same; and
  - (ii) it shall not be entitled to receive any report or other document prepared at the behest of, or on the instructions of, the Facility Agent (acting on the instructions of the Majority Lenders) or one or more of the Lenders,

unless in the case of either of paragraphs (i) or (ii), all the Lenders consent to such Sponsor Affiliate receiving such information or attending such meeting or conference.

### **30 CHANGES TO THE OBLIGORS**

#### **30.1 Assignment or transfer by Obligors**

No Obligor may assign any of its rights or transfer any of its rights or obligations under the Finance Documents, without the prior written consent of the Facility Agent.

#### **30.2 Release of security**

- (a) If a disposal of any asset subject to security created by a Security Document is made in the following circumstances:
  - (i) the disposal is permitted by the terms of any Finance Document;
  - (ii) the Lenders agree to the disposal;
  - (iii) the disposal is being made at the request of the Security Agent in circumstances where any security created by the Security Documents has become enforceable; or
  - (iv) the disposal is being effected by enforcement of a Security Document,

the Security Agent may release the asset(s) being disposed of from any security over those assets created by a Security Document. However, the proceeds of any disposal (or an amount

corresponding to them) must be applied in accordance with the requirements of the Finance Documents (if any).

- (b) If the Security Agent is satisfied that a release is allowed under this Clause 30.2 (*Release of security*) (at the request and expense of the Borrowers) each Finance Party must enter into any document and do all such other things which are reasonably required to achieve that release. Each other Finance Party irrevocably authorises the Security Agent to enter into any such document. Any release will not affect the obligations of any other Obligor under the Finance Documents.

### **30.3 Additional Subordinated Creditors**

- (a) The Borrowers may request that any person becomes a Subordinated Creditor, with the prior approval of the Facility Agent (acting on the instructions of the Majority Lenders), by delivering to the Facility Agent:
  - (i) a duly executed Subordination Agreement;
  - (ii) a duly executed Subordinated Debt Security; and
  - (iii) such constitutional documents, corporate authorisations and other documents and matters as the Facility Agent may reasonably require (acting on the instructions of the Majority Lenders), in form and substance satisfactory to the Facility Agent (acting on the instructions of the Majority Lenders), to verify that the person's obligations are legally binding, valid and enforceable and to satisfy any applicable legal and regulatory requirements.
- (b) A person referred to in paragraph (a) above will become a Subordinated Creditor on the date the Security Agent enters into the Subordination Agreement and the Subordinated Debt Security delivered under paragraph (a) above.

## SECTION 10

### THE FINANCE PARTIES

#### 31 THE FACILITY AGENT, THE ARRANGER AND THE REFERENCE BANKS

##### 31.1 Appointment of the Facility Agent

- (a) Each of the Arranger, the Lenders and the Hedge Counterparties appoints the Facility Agent to act as its agent under and in connection with the Finance Documents.
- (b) Each of the Arranger, the Lenders and the Hedge Counterparties authorises the Facility Agent to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Facility Agent under, or in connection with, the Finance Documents together with any other incidental rights, powers, authorities and discretions.

##### 31.2 Instructions

- (a) The Facility Agent shall:
  - (i) unless a contrary indication appears in a Finance Document, exercise or refrain from exercising any right, power, authority or discretion vested in it as Facility Agent in accordance with any instructions given to it by:
    - (A) all Lenders if the relevant Finance Document stipulates the matter is an all Lender decision; and
    - (B) in all other cases, the Majority Lenders; and
  - (ii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with sub-paragraph (i) above (or, if this Agreement stipulates the matter is a decision for any other Finance Party or group of Finance Parties, in accordance with instructions given to it by that Finance Party or group of Finance Parties).
- (b) The Facility Agent shall be entitled to request instructions, or clarification of any instruction, from the Majority Lenders (or, if the relevant Finance Document stipulates the matter is a decision for any other Finance Party or group of Finance Parties, from that Finance Party or group of Finance Parties) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Facility Agent may refrain from acting unless and until it receives any such instructions or clarification that it has requested.
- (c) Save in the case of decisions stipulated to be a matter for any other Finance Party or group of Finance Parties under the relevant Finance Document and unless a contrary indication appears in a Finance Document, any instructions given to the Facility Agent by the Majority Lenders shall override any conflicting instructions given by any other Parties and will be binding on all Finance Parties.
- (d) Paragraph (a) above shall not apply:

- (i) where a Finance Document requires the Facility Agent to act (on the instruction of the Majority Lenders or the Lenders as applicable) in a specified manner or to take a specified action;
  - (ii) in respect of any provision which protects the Facility Agent's own position in its personal capacity as opposed to its role of Facility Agent for the relevant Finance Parties.
- (e) If giving effect to instructions given by the Majority Lenders would in the Facility Agent's opinion have an effect equivalent to an amendment or waiver referred to in Clause 44 (*Amendments and Waivers*), the Facility Agent shall not act in accordance with those instructions unless consent to it so acting is obtained from each Party (other than the Facility Agent) whose consent would have been required in respect of that amendment or waiver.
  - (f) The Facility Agent may refrain from acting in accordance with any instructions of any Finance Party or group of Finance Parties until it has received any indemnification and/or security that it may in its discretion require (which may be greater in extent than that contained in the Finance Documents and which may include payment in advance) for any cost, loss or liability (together with any applicable VAT) which it may incur in complying with those instructions.
  - (g) Without prejudice to the remainder of this Clause 31.2 (*Instructions*), in the absence of instructions, the Facility Agent shall not be obliged to take any action (or refrain from taking action) even if it considers acting or not acting to be in the best interests of the Finance Parties.
  - (h) The Facility Agent is not authorised to act on behalf of a Finance Party (without first obtaining that Finance Party's consent) in any legal or arbitration proceedings relating to any Finance Document.

### **31.3 Duties of the Facility Agent**

- (a) The Facility Agent's duties under the Finance Documents are solely mechanical and administrative in nature.
- (b) Subject to paragraph (c) below, the Facility Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Facility Agent for that Party by any other Party.
- (c) Without prejudice to Clause 29.7 (*Copy of Transfer Certificate or Assignment Agreement to Borrower*), paragraph (b) above shall not apply to any Transfer Certificate or any Assignment Agreement.
- (d) Notwithstanding anything set out in any Transaction Document, the Facility Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (e) If the Facility Agent receives notice from a Party referring to any Finance Document, describing a circumstance and stating that the circumstance described is a Default, it shall promptly notify the other Finance Parties but shall not have any duty to verify whether the circumstance described has actually occurred or whether it constitutes a Default, unless it receives instructions from the Majority Lenders to investigate such circumstance.

- (f) If the Facility Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Finance Party (other than the Facility Agent, the Arranger or the Security Agent) under this Agreement, it shall promptly notify the other Finance Parties.
- (g) The Facility Agent shall have only those duties, obligations and responsibilities expressly specified in the Finance Documents to which it is expressed to be a party (and no others shall be implied).

#### **31.4 Role of the Arranger**

Except as specifically provided in the Finance Documents, the Arranger has no obligations of any kind to any other Party under or in connection with any Finance Document.

#### **31.5 No fiduciary duties**

- (a) Nothing in any Finance Document constitutes the Facility Agent or the Arranger as a trustee or fiduciary of any other person.
- (b) Neither the Facility Agent nor the Arranger shall be bound to account to other Finance Party for any sum or the profit element of any sum received by it for its own account.

#### **31.6 Application of receipts**

Except as expressly stated to the contrary in any Finance Document, any moneys which the Facility Agent receives or recovers in its capacity as Facility Agent shall be applied by the Facility Agent in accordance with Clause 35.5 (*Application of receipts; partial payments*).

#### **31.7 Business with the Group**

The Facility Agent and the Arranger may accept deposits from, lend money to, and generally engage in any kind of banking or other business with, any member of the Group.

#### **31.8 Rights and discretions**

- (a) The Facility Agent may:
  - (i) rely on any representation, communication, notice or document believed by it to be genuine, correct and appropriately authorised;
  - (ii) assume that:
    - (A) any instructions received by it from the Majority Lenders, any Finance Parties or any group of Finance Parties are duly given in accordance with the terms of the Finance Documents; and
    - (B) unless it has received notice of revocation, that those instructions have not been revoked; and
  - (iii) rely on a certificate from any person:
    - (A) as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or

(B) to the effect that such person approves of any particular dealing, transaction, step, action or thing, as sufficient evidence that that is the case and, in the case of paragraph (A) above, may assume the truth and accuracy of that certificate.

- (b) The Facility Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Finance Parties) that:
- (i) no Default has occurred (unless it has actual knowledge of a Default arising under Clause 28.2 (*Non-payment*));
  - (ii) any right, power, authority or discretion vested in any Party or any group of Finance Parties has not been exercised; and
  - (iii) any notice or request made by any Borrower (other than a Utilisation Request or a Selection Notice) is made on behalf of and with the consent and knowledge of all the Transaction Obligors.
- (c) The Facility Agent may engage (at the Borrowers' expense) the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts.
- (d) Without prejudice to the generality of paragraph (c) above or paragraph (e) below, the Facility Agent may at any time engage (at the Borrowers' expense) the services of any lawyers to act as independent counsel to the Facility Agent (and so separate from any lawyers instructed by the Lenders) if the Facility Agent in its reasonable opinion deems this to be desirable.
- (e) The Facility Agent may rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Facility Agent or by any other Party) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.
- (f) The Facility Agent may act in relation to the Finance Documents and the Security Property through its officers, employees and agents and shall not:
- (i) be liable for any error of judgment made by any such person; or
  - (ii) be bound to supervise, or be in any way responsible for any loss incurred by reason of misconduct, omission or default on the part of any such person,
- unless such error or such loss was directly caused by the Facility Agent's gross negligence or wilful misconduct.
- (g) Unless a Finance Document expressly provides otherwise the Facility Agent may disclose to any other Party any information it reasonably believes it has received as agent under the Finance Documents.
- (h) Notwithstanding any other provision of any Finance Document to the contrary and without prejudice to Clause 31.5 (*No fiduciary duties*), neither the Facility Agent nor the Arranger is obliged to do or omit to do anything if it would or might, in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.



- (i) Notwithstanding any provision of any Finance Document to the contrary, the Facility Agent is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.

### **31.9 Responsibility for documentation**

Neither the Facility Agent nor the Arranger is responsible or liable for:

- (a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Facility Agent, the Security Agent, the Arranger, a Transaction Obligor or any other person in, or in connection with, any Transaction Document or the transactions contemplated in the Transaction Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Transaction Document; or
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Transaction Document or the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Transaction Document or the Security Property; or
- (c) any determination as to whether any information provided or to be provided to any Finance Party or Secured Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

### **31.10 No duty to monitor**

The Facility Agent shall not be bound to enquire:

- (a) whether or not any Default has occurred;
- (b) as to the performance, default or any breach by any Transaction Obligor of its obligations under any Transaction Document; or
- (c) whether any other event specified in any Transaction Document has occurred.

### **31.11 Exclusion of liability**

- (a) Without limiting paragraph (b) below (and without prejudice to paragraph (e) of Clause 35.11 (*Disruption to Payment Systems etc.*) or any other provision of any Finance Document excluding or limiting the liability of the Facility Agent), the Facility Agent will not be liable for:
  - (i) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with any Transaction Document or the Security Property, unless directly caused by its gross negligence or wilful misconduct;
  - (ii) exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with, any Transaction Document, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation

of, under or in connection with, any Transaction Document or the Security Property; or

- (iii) any shortfall which arises on the enforcement or realisation of the Security Property; or
- (iv) without prejudice to the generality of paragraphs (i) to (iii) above, any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of:
  - (A) any act, event or circumstance not reasonably within its control; or
  - (B) the general risks of investment in, or the holding of assets in, any jurisdiction,

including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets (including any Disruption Event); breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.

- (b) No Party other than the Facility Agent may take any proceedings against any officer, employee or agent of the Facility Agent in respect of any claim it might have against the Facility Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Transaction Document or any Security Property and any officer, employee or agent of the Facility Agent may rely on this Clause subject to Clause 1.5 (*Third party rights*) and the provisions of the Third Parties Act.
- (c) The Facility Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by the Facility Agent if the Facility Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Facility Agent for that purpose.
- (d) Nothing in this Agreement shall oblige the Facility Agent or the Arranger to carry out:
  - (i) any “know your customer” or other checks in relation to any person; or
  - (ii) any check on the extent to which any transaction contemplated by this Agreement might be unlawful for any Finance Party,on behalf of any Finance Party and each Finance Party confirms to the Facility Agent and the Arranger that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Facility Agent or the Arranger.
- (e) Without prejudice to any provision of any Finance Document excluding or limiting the Facility Agent’s liability, any liability of the Facility Agent arising under or in connection with any Transaction Document or the Security Property shall be limited to the amount of actual loss

which has been finally judicially determined to have been suffered (as determined by reference to the date of default of the Facility Agent or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Facility Agent at any time which increase the amount of that loss. In no event shall the Facility Agent be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Facility Agent has been advised of the possibility of such loss or damages.

### **31.12 Lenders' indemnity to the Facility Agent**

- (a) Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Facility Agent, within three Business Days of demand, against any cost, loss or liability incurred by the Facility Agent (otherwise than by reason of the Facility Agent's gross negligence or wilful misconduct) (or, in the case of any cost, loss or liability pursuant to Clause 35.11 (*Disruption to Payment Systems etc.*) notwithstanding the Facility Agent's negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Facility Agent) in acting as Facility Agent under the Finance Documents (unless the Facility Agent has been reimbursed by a Transaction Obligor pursuant to a Finance Document).
- (b) Subject to paragraph (c) below, the Borrowers shall immediately on demand reimburse any Lender for any payment that Lender makes to the Facility Agent pursuant to paragraph (a) above.
- (c) Paragraph (b) above shall not apply to the extent that the indemnity payment in respect of which the Lender claims reimbursement relates to a liability of the Facility Agent to an Obligor.

### **31.13 Resignation of the Facility Agent**

- (a) The Facility Agent may resign and appoint one of its Affiliates as successor by giving notice to the other Finance Parties and the Borrowers.
- (b) Alternatively, the Facility Agent may resign by giving 30 days' notice to the other Finance Parties and the Borrowers, in which case the Majority Lenders may appoint a successor Facility Agent.
- (c) If the Majority Lenders have not appointed a successor Facility Agent in accordance with paragraph (b) above within 20 days after notice of resignation was given, the retiring Facility Agent may appoint a successor Facility Agent.
- (d) If the Facility Agent wishes to resign because (acting reasonably) it has concluded that it is no longer appropriate for it to remain as agent and the Facility Agent is entitled to appoint a successor Facility Agent under paragraph (c) above, the Facility Agent may (if it concludes (acting reasonably) that it is necessary to do so in order to persuade the proposed successor Facility Agent to become a party to this Agreement as Facility Agent) agree with the proposed successor Facility Agent amendments to this Clause 31 (*The Facility Agent, the Arranger and the Reference Banks*) and any other term of this Agreement dealing with the rights or obligations of the Facility Agent consistent with then current market practice for the appointment and protection of corporate trustees together with any reasonable amendments

to the agency fee payable under this Agreement which are consistent with the successor Facility Agent's normal fee rates and those amendments will bind the Parties.

- (e) The retiring Facility Agent shall, at the Borrower's cost, make available to the successor Facility Agent such documents and records and provide such assistance as the successor Facility Agent may reasonably request for the purposes of performing its functions as Facility Agent under the Finance Documents. The Borrowers shall, within three Business Days of demand, reimburse the retiring Facility Agent for the amount of all costs and expenses (including legal fees) properly incurred by it in making available such documents and records and providing such assistance.
- (f) The Facility Agent's resignation notice shall only take effect upon the appointment of a successor.
- (g) Upon the appointment of a successor, the retiring Facility Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (e) above) but shall remain entitled to the benefit of Clause 14.4 (*Indemnity to the Facility Agent*) and this Clause 31 (*The Facility Agent, the Arranger and the Reference Banks*) and any other provisions of a Finance Document which are expressed to limit or exclude its liability (or to indemnify it) in acting as Facility Agent. Any fees for the account of the retiring Facility Agent shall cease to accrue from (and shall be payable on) that date). Any successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.
- (h) The Majority Lenders may, by notice to the Facility Agent, require it to resign in accordance with paragraph (b) above. In this event, the Facility Agent shall resign in accordance with paragraph (b) above but the cost referred to in paragraph (e) above shall be for the account of the Borrowers.
- (i) The consent of any Borrower (or any other Transaction Obligor) is not required for an assignment or transfer of rights and/or obligations by the Facility Agent.
- (j) The Facility Agent shall resign in accordance with paragraph (b) above (and, to the extent applicable, shall use reasonable endeavours to appoint a successor Facility Agent pursuant to paragraph (c) above) if on or after the date which is three months before the earliest FATCA Application Date relating to any payment to the Facility Agent under the Finance Documents, either:
  - (i) the Facility Agent fails to respond to a request under Clause 12.7 (*FATCA Information*) and a Lender reasonably believes that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;
  - (ii) the information supplied by the Facility Agent pursuant to Clause 12.7 (*FATCA Information*) indicates that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or
  - (iii) the Facility Agent notifies the Borrowers and the Lenders that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;

and (in each case) a Lender reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Facility Agent were a FATCA Exempt Party, and that Lender, by notice to the Facility Agent, requires it to resign.

#### **31.14 Confidentiality**

- (a) In acting as Facility Agent for the Finance Parties, the Facility Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.
- (b) If information is received by a division or department of the Facility Agent other than the division or department responsible for complying with the obligations assumed by it under the Finance Documents, that information may be treated as confidential to that division or department, and the Facility Agent shall not be deemed to have notice of it nor shall it be obliged to disclose such information to any Party.
- (c) Notwithstanding any other provision of any Finance Document to the contrary, neither the Facility Agent nor the Arranger is obliged to disclose to any other person (i) any confidential information or (ii) any other information if the disclosure would, or might in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty.

#### **31.15 Relationship with the other Finance Parties**

- (a) Subject to Clause 29.10 (*Pro rata interest settlement*), the Facility Agent may treat the person shown in its records as Lender or Hedge Counterparty at the opening of business (in the place of the Facility Agent's principal office as notified to the Finance Parties from time to time) as the Lender acting through its Facility Office or, as the case may be, the Hedge Counterparty:
  - (i) entitled to or liable for any payment due under any Finance Document on that day; and
  - (ii) entitled to receive and act upon any notice, request, document or communication or make any decision or determination under any Finance Document made or delivered on that day,

unless it has received not less than five Business Days' prior written notice from that Lender or Hedge Counterparty to the contrary in accordance with the terms of this Agreement.

- (b) Each Finance Party shall supply the Facility Agent with any information that the Security Agent may reasonably specify (through the Facility Agent) as being necessary or desirable to enable the Security Agent to perform its functions as Security Agent. Each Finance Party shall deal with the Security Agent exclusively through the Facility Agent and shall not deal directly with the Security Agent and any reference to any instructions being given by or sought from any Finance Party or group of Finance Parties by or to the Security Agent in this Agreement must be given or sought through the Facility Agent.
- (c) Any Lender may by notice to the Facility Agent appoint a person to receive on its behalf all notices, communications, information and documents to be made or despatched to that Lender under the Finance Documents. Such notice shall contain the address, fax number and (where communication by electronic mail or other electronic means is permitted under Clause 38.5 (*Electronic communication*)) electronic mail address and/or any other information

required to enable the transmission of information by that means (and, in each case, the department or officer, if any, for whose attention communication is to be made) and be treated as a notification of a substitute address, fax number, electronic mail address (or such other information), department and officer by that Lender for the purposes of Clause 38.2 (*Addresses*) and sub-paragraph (ii) of paragraph (a) of Clause 38.5 (*Electronic communication*) and the Facility Agent shall be entitled to treat such person as the person entitled to receive all such notices, communications, information and documents as though that person were that Lender.

### **31.16 Credit appraisal by the Finance Parties**

Without affecting the responsibility of any Transaction Obligor for information supplied by it or on its behalf in connection with any Transaction Document, each Finance Party confirms to the Facility Agent and the Arranger that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under, or in connection with, any Transaction Document including but not limited to:

- (a) the financial condition, status and nature of each member of the Group;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Transaction Document, the Security Property and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Transaction Document or the Security Property;
- (c) whether that Finance Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under, or in connection with, any Transaction Document, the Security Property, the transactions contemplated by the Transaction Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Transaction Document or the Security Property;
- (d) the adequacy, accuracy or completeness of any information provided by the Facility Agent, any Party or by any other person under, or in connection with, any Transaction Document, the transactions contemplated by any Transaction Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Transaction Document; and
- (e) the right or title of any person in or to or the value or sufficiency of any part of the Security Assets, the priority of any of the Transaction Security or the existence of any Security affecting the Security Assets.

### **31.17 Facility Agent's management time**

Any amount payable to the Facility Agent under Clause 14.4 (*Indemnity to the Facility Agent*), Clause 16 (*Costs and Expenses*) and Clause 31.12 (*Lenders' indemnity to the Facility Agent*) shall include the cost of utilising the Facility Agent's management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Facility Agent may notify to the Borrowers and the other Finance Parties, and is in addition to any fee paid or payable to the Facility Agent under Clause 11 (*Fees*).

### **31.18 Deduction from amounts payable by the Facility Agent**

If any Party owes an amount to the Facility Agent under the Finance Documents, the Facility Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Facility Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.

### **31.19 Reliance and engagement letters**

Each Secured Party confirms that each of the Arranger and the Facility Agent has authority to accept on its behalf (and ratifies the acceptance on its behalf of any letters or reports already accepted by the Arranger or the Facility Agent) the terms of any reliance letter or engagement letters or any reports or letters provided by accountants, auditors or providers of due diligence reports in connection with the Finance Documents or the transactions contemplated in the Finance Documents and to bind it in respect of those, reports or letters and to sign such letters on its behalf and further confirms that it accepts the terms and qualifications set out in such letters.

### **31.20 Full freedom to enter into transactions**

Without prejudice to Clause 31.7 (*Business with the Group*) or any other provision of a Finance Document and notwithstanding any rule of law or equity to the contrary, the Facility Agent shall be absolutely entitled:

- (a) to enter into and arrange banking, derivative, investment and/or other transactions of every kind with or affecting any Transaction Obligor or any person who is party to, or referred to in, a Finance Document (including, but not limited to, any interest or currency swap or other transaction, whether related to this Agreement or not, and acting as syndicate agent and/or security agent for, and/or participating in, other facilities to such Transaction Obligor or any person who is party to, or referred to in, a Finance Document);
- (b) to deal in and enter into and arrange transactions relating to:
  - (i) any securities issued or to be issued by any Transaction Obligor or any other person; or
  - (ii) any options or other derivatives in connection with such securities; and
- (c) to provide advice or other services to any Borrower or any person who is a party to, or referred to in, a Finance Document,

and, in particular, the Facility Agent shall be absolutely entitled, in proposing, evaluating, negotiating, entering into and arranging all such transactions and in connection with all other matters covered by paragraphs (a), (b) and (c) above, to use (subject only to insider dealing legislation) any information or opportunity, howsoever acquired by it, to pursue its own interests exclusively, to refrain from disclosing such dealings, transactions or other matters or any information acquired in connection with them and to retain for its sole benefit all profits and benefits derived from the dealings transactions or other matters.

### 31.21 Role of Reference Banks

- (a) No Reference Bank is under any obligation to provide a quotation or any other information to the Facility Agent.
- (b) No Reference Bank will be liable for any action taken by it under or in connection with any Finance Document, or for any Reference Bank Quotation, unless directly caused by its gross negligence or wilful misconduct.
- (c) No Party (other than the relevant Reference Bank) may take any proceedings against any officer, employee or agent of any Reference Bank in respect of any claim it might have against that Reference Bank or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document, or to any Reference Bank Quotation, and any officer, employee or agent of each Reference Bank may rely on this Clause 31.21 (*Role of Reference Banks*) subject to Clause 1.5 (*Third party rights*) and the provisions of the Third Parties Act.

### 31.22 Third Party Reference Banks

A Reference Bank which is not a Party may rely on Clause 31.21 (*Role of Reference Banks*), Clause 44.3 (*Other exceptions*) and Clause 46 (*Confidentiality of Funding Rates and Reference Bank Quotations*) subject to Clause 1.5 (*Third party rights*) and the provisions of the Third Parties Act.

### 32 [INTENTIONALLY OMITTED]

### 33 CONDUCT OF BUSINESS BY THE FINANCE PARTIES

No provision of this Agreement will:

- (a) interfere with the right of any Finance Party to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;
- (b) oblige any Finance Party to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or
- (c) oblige any Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

### 34 SHARING AMONG THE FINANCE PARTIES

#### 34.1 Payments to Finance Parties

If a Finance Party (a "**Recovering Finance Party**") receives or recovers any amount from a Transaction Obligor other than in accordance with Clause 35 (*Payment Mechanics*) (a "**Recovered Amount**") and applies that amount to a payment due to it under the Finance Documents then:

- (a) the Recovering Finance Party shall, within three Business Days, notify details of the receipt or recovery, to the Facility Agent;



- (b) the Facility Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Finance Party would have been paid had the receipt or recovery been received or made by the Facility Agent and distributed in accordance with Clause 35 (*Payment Mechanics*), without taking account of any Tax which would be imposed on the Facility Agent in relation to the receipt, recovery or distribution; and
- (c) the Recovering Finance Party shall, within three Business Days of demand by the Facility Agent, pay to the Facility Agent an amount (the "**Sharing Payment**") equal to such receipt or recovery less any amount which the Facility Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with Clause 35.5 (*Application of receipts; partial payments*).

#### **34.2 Redistribution of payments**

The Facility Agent shall treat the Sharing Payment as if it had been paid by the relevant Transaction Obligor and distribute it among the Finance Parties (other than the Recovering Finance Party) (the "**Sharing Finance Parties**") in accordance with Clause 35.5 (*Application of receipts; partial payments*) towards the obligations of that Transaction Obligor to the Sharing Finance Parties.

#### **34.3 Recovering Finance Party's rights**

On a distribution by the Facility Agent under Clause 34.2 (*Redistribution of payments*) of a payment received by a Recovering Finance Party from a Transaction Obligor, as between the relevant Transaction Obligor and the Recovering Finance Party, an amount of the Recovered Amount equal to the Sharing Payment will be treated as not having been paid by that Transaction Obligor.

#### **34.4 Reversal of redistribution**

If any part of the Sharing Payment received or recovered by a Recovering Finance Party becomes repayable and is repaid by that Recovering Finance Party, then:

- (a) each Sharing Finance Party shall, upon request of the Facility Agent, pay to the Facility Agent for the account of that Recovering Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay) (the "**Redistributed Amount**"); and
- (b) as between the relevant Transaction Obligor and each relevant Sharing Finance Party, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by that Transaction Obligor.

#### **34.5 Exceptions**

- (a) This Clause 34 (*Sharing among the Finance Parties*) shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause, have a valid and enforceable claim against the relevant Transaction Obligor.

- (b) A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:
- (i) it notified that other Finance Party of the legal or arbitration proceedings; and
  - (ii) that other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

## SECTION 11

### ADMINISTRATION

#### 35 PAYMENT MECHANICS

##### 35.1 Payments to the Facility Agent

- (a) On each date on which a Transaction Obligor or a Lender is required to make a payment under a Finance Document, that Transaction Obligor or Lender shall make an amount equal to such payment available to the Facility Agent (unless a contrary indication appears in a Finance Document) for value on the due date no later than 12 noon (London time) and in such funds specified by the Facility Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.
- (b) Payment shall be made to such account in the principal financial centre of the country of that currency (or, in relation to euro, in a principal financial centre in such Participating Member State or London, as specified by the Facility Agent) and with such bank as the Facility Agent, in each case, specifies.

##### 35.2 Distributions by the Facility Agent

Each payment received by the Facility Agent under the Finance Documents for another Party shall, subject to Clause 35.3 (*Distributions to a Transaction Obligor*) and Clause 35.4 (*Clawback and pre-funding*) be made available by the Facility Agent as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office), to such account as that Party may notify to the Facility Agent by not less than five Business Days' notice with a bank specified by that Party in the principal financial centre of the country of that currency (or, in relation to euro, in the principal financial centre of a Participating Member State or London), as specified by that Party or, in the case of an Advance, to such account of such person as may be specified by the Borrowers in a Utilisation Request.

##### 35.3 Distributions to a Transaction Obligor

The Facility Agent may (with the consent of the Transaction Obligor or in accordance with Clause 36 (*Set-Off*)) apply any amount received by it for that Transaction Obligor in or towards payment (on the date and in the currency and funds of receipt) of any amount due from that Transaction Obligor under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

##### 35.4 Clawback and pre-funding

- (a) Where a sum is to be paid to the Facility Agent under the Finance Documents for another Party, the Facility Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.
- (b) Unless paragraph (c) below applies, if the Facility Agent pays an amount to another Party and it proves to be the case that the Facility Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by

the Facility Agent shall on demand refund the same to the Facility Agent together with interest on that amount from the date of payment to the date of receipt by the Facility Agent, calculated by the Facility Agent to reflect its cost of funds.

- (c) If the Facility Agent has notified the Lenders that it is willing to make available amounts for the account of the Borrowers before receiving funds from the Lenders then if and to the extent that the Facility Agent does so but it proves to be the case that it does not then receive funds from a Lender in respect of a sum which it paid to the Borrowers:
- (i) the Facility Agent shall notify the Borrowers of that Lender's identity and the Borrowers shall on demand refund it to the Facility Agent; and
  - (ii) the Lender by whom those funds should have been made available or, if the Lender fails to do so, the Borrowers shall on demand pay to the Facility Agent the amount (as certified by the Facility Agent) which will indemnify the Facility Agent against any funding cost incurred by it as a result of paying out that sum before receiving those funds from that Lender.

### 35.5 Application of receipts; partial payments

- (a) If the Facility Agent receives a payment that is insufficient to discharge all the amounts then due and payable by a Transaction Obligor under the Finance Documents, the Facility Agent shall apply that payment towards the obligations of that Transaction Obligor under the Finance Documents in the following order:
- (i) **first**, in or towards payment *pro rata* of any unpaid fees, costs and expenses of, and any other amounts owing to, the Facility Agent, the Security Agent, any Receiver or any Delegate under the Finance Documents;
  - (ii) **secondly**, in or towards payment *pro rata* of any accrued interest and fees due but unpaid to the Lenders under this Agreement;
  - (iii) **thirdly**, in or towards payment *pro rata* of any principal due but unpaid to the Lenders under this Agreement;
  - (iv) **fourthly**, in or towards payment *pro rata* of any other sum due but unpaid under the Finance Documents (other than any Hedging Agreements);
  - (v) **fifthly**, in or towards payment *pro rata* of any unpaid fees, costs and expenses of and any amounts owing to, the Hedge Counterparty, any Receiver and Delegate under any Hedging Agreements;
  - (vi) **sixthly**, in or towards payment *pro rata* of any periodical payments (not being payments as a result of termination or closing out) due but unpaid to the Hedge Counterparty under the Hedging Agreements;
  - (vii) **seventhly**, in or towards payment *pro rata* of any payments as a result of termination or closing out due but unpaid to the Hedge Counterparty under the Hedging Agreements; and
  - (viii) **eighthly**, in or towards payment *pro rata* of any other sum due to the Hedge Counterparty under the Hedging Agreements.

- (b) The Facility Agent shall, if so directed by the Majority Lenders and the Hedge Counterparties, vary, or instruct the Security Agent to vary (as applicable), the order set out in sub-paragraphs (ii) to (iv) of paragraph (a) above.
- (c) Paragraphs (a) and (b) above will override any appropriation made by a Transaction Obligor.

**35.6 No set-off by Transaction Obligors**

- (a) All payments to be made by a Transaction Obligor under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.
- (b) Paragraph (a) above shall not affect the operation of any payment or close-out netting in respect of any amounts owing under any Hedging Agreement.

**35.7 Business Days**

- (a) Any payment under the Finance Documents which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- (b) During any extension of the due date for payment of any principal or an Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

**35.8 Currency of account**

- (a) Subject to paragraphs (b) and (c) below, dollars is the currency of account and payment for any sum due from a Transaction Obligor under any Finance Document.
- (b) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.
- (c) Any amount expressed to be payable in a currency other than dollars shall be paid in that other currency.

**35.9 Change of currency**

- (a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:
  - (i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Facility Agent (acting on the instructions of the Majority Lenders after consultation with the Borrowers); and
  - (ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Facility Agent (acting on the instructions of the Majority Lenders) (acting reasonably).

- (b) If a change in any currency of a country occurs, this Agreement will, to the extent the Facility Agent (acting on the instructions of the Lenders acting reasonably and after consultation with the Borrowers) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the Relevant Interbank Market and otherwise to reflect the change in currency.

#### **35.10 Currency Conversion**

- (a) For the purpose of, or pending any payment to be made by any Servicing Party under any Finance Document, such Servicing Party may convert any moneys received or recovered by it from one currency to another, at a market rate of exchange.
- (b) The obligations of any Transaction Obligor to pay in the due currency shall only be satisfied to the extent of the amount of the due currency purchased after deducting the costs of conversion.

#### **35.11 Disruption to Payment Systems etc.**

If either the Facility Agent determines (in its discretion) that a Disruption Event has occurred or the Facility Agent is notified by a Borrower that a Disruption Event has occurred:

- (a) the Facility Agent may, and shall if requested to do so by a Borrower, consult with the Borrowers with a view to agreeing with the Borrowers such changes to the operation or administration of the Facility as the Facility Agent may deem necessary in the circumstances;
- (b) the Facility Agent shall not be obliged to consult with the Borrowers in relation to any changes mentioned in paragraph (a) above if, in its opinion, it is not practicable to do so in the circumstances and, in any event, shall have no obligation to agree to such changes;
- (c) the Facility Agent may consult with the Finance Parties in relation to any changes mentioned in paragraph (a) above but shall not be obliged to do so if, in its opinion, it is not practicable to do so in the circumstances;
- (d) any such changes agreed upon by the Facility Agent and the Borrowers shall (whether or not it is finally determined that a Disruption Event has occurred) be binding upon the Parties and any Transaction Obligors as an amendment to (or, as the case may be, waiver of) the terms of the Finance Documents notwithstanding the provisions of Clause 44 (*Amendments and Waivers*);
- (e) the Facility Agent shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever (including, without limitation for negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Facility Agent) arising as a result of its taking, or failing to take, any actions pursuant to or in connection with this Clause 35.11 (*Disruption to Payment Systems etc.*); and
- (f) the Facility Agent shall notify the Finance Parties of all changes agreed pursuant to paragraph (d) above.

#### **36 SET-OFF**

A Finance Party may set off any amount due and payable from an Obligor under the Finance Documents (to the extent beneficially owned by that Finance Party) against any amount owed

by that Finance Party to that Transaction Obligor, regardless of the place of payment, booking branch or currency of such amounts. If the amounts due are in different currencies, the Finance Party may convert the relevant amount at a market rate of exchange in its usual course of business for the purpose of the set-off. The relevant Finance Party shall notify the relevant Obligor as soon as reasonably practicable after any set-off.

## **37 BAIL-IN AND BREXIT**

### **37.1 Bail-in**

Notwithstanding any other term of any Finance Document or any other agreement, arrangement or understanding between the parties to a Finance Document, each Party acknowledges and accepts that any liability of any party to a Finance Document under or in connection with the Finance Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

- (a) any Bail-In Action in relation to any such liability, including (without limitation):
  - (i) a reduction, in full or in part, in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;
  - (ii) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and
  - (iii) a cancellation of any such liability; and
- (b) a variation of any term of any Finance Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.

### **37.2 Brexit**

The Original Lender is authorised by the Obligors, at any time during the Security Period, by written notice (including, without limitation, by e-mail communication) to the Obligors, to designate another office or branch of the Original Lender (such office or branch, the "**Designee**") as the office or branch through which it will perform its obligations, functions or responsibilities or exercise its rights under this Agreement. To the extent permitted by applicable laws and regulations, the Original Lender and, if applicable, any Designee is authorised by the Obligors to delegate the performance of any such obligations, functions or responsibilities to its Affiliates (a "**Delegate**"). For the avoidance of doubt, the Original Lender may disclose any non-public information in relation to any Transaction Obligor, any of its Affiliates or this Agreement to any Designee or Delegate, and any such Designee or Delegate may disclose any such non-public information to its Affiliates and its and their respective officers, directors and employees.

## **38 NOTICES**

### **38.1 Communications in writing**

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by fax or letter.

### 38.2 Addresses

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents are:

- (a) in the case of the Borrowers, that specified in Schedule 1 (*The Parties*);
- (b) in the case of each Lender, each Hedge Counterparty or any other Obligor, that specified in Schedule 1 (*The Parties*) or, if it becomes a Party after the date of this Agreement, that notified in writing to the Facility Agent on or before the date on which it becomes a Party;
- (c) in the case of the Facility Agent, that specified in Schedule 1 (*The Parties*); and
- (d) in the case of the Security Agent, that specified in Schedule 1 (*The Parties*),

or any substitute address, fax number or department or officer as the Party may notify to the Facility Agent (or the Facility Agent may notify to the other Parties, if a change is made by the Facility Agent) by not less than five Business Days' notice.

### 38.3 Delivery

- (a) Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective:
  - (i) if by way of fax, when received in legible form; or
  - (ii) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under Clause 38.2 (*Addresses*), if addressed to that department or officer.

- (b) Any communication or document to be made or delivered to a Servicing Party will be effective only when actually received by that Servicing Party and then only if it is expressly marked for the attention of the department or officer of that Servicing Party specified in Schedule 1 (*The Parties*) (or any substitute department or officer as that Servicing Party shall specify for this purpose).
- (c) All notices from or to a Transaction Obligor shall be sent through the Facility Agent unless otherwise specified in any Finance Document.
- (d) Any communication or document made or delivered to the Borrowers in accordance with this Clause will be deemed to have been made or delivered to each of the Transaction Obligors.
- (e) Any communication or document which becomes effective, in accordance with paragraphs (a) to (d) above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.



#### **38.4 Notification of address and fax number**

Promptly upon receipt of notification of an address and fax number or change of address or fax number pursuant to Clause 38.2 (*Addresses*) or changing its own address or fax number, the Facility Agent shall notify the other Parties.

#### **38.5 Electronic communication**

- (a) Any communication to be made between any two Parties under or in connection with the Finance Documents may be made by electronic mail or other electronic means (including, without limitation, by way of posting to a secure website) if those two Parties:
  - (i) notify each other in writing of their electronic mail address and/or any other information required to enable the transmission of information by that means; and
  - (ii) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.
- (b) Any such electronic communication as specified in paragraph (a) above to be made between an Obligor and a Finance Party may only be made in that way to the extent that those two Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication.
- (c) Any such electronic communication as specified in paragraph (a) above made between any two Parties will be effective only when actually received (or made available) in readable form and in the case of any electronic communication made by a Party to the Facility Agent or the Security Agent only if it is addressed in such a manner as the Facility Agent or the Security Agent shall specify for this purpose.
- (d) Any electronic communication which becomes effective, in accordance with paragraph (c) above, after 5.00 p.m. in the place in which the Party to whom the relevant communication is sent or made available has its address for the purpose of this Agreement shall be deemed only to become effective on the following day.
- (e) Any reference in a Finance Document to a communication being sent or received shall be construed to include that communication being made available in accordance with this Clause 38.5 (*Electronic communication*).

#### **38.6 English language**

- (a) Any notice given under or in connection with any Finance Document must be in English.
- (b) All other documents provided under or in connection with any Finance Document must be:
  - (i) in English; or
  - (ii) if not in English, and if so required by the Facility Agent (acting on the instructions of the Majority Lenders), accompanied by a certified English translation prepared by a translator approved by the Facility Agent (acting on the instructions of the Majority Lenders) and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

### **38.7 Hedging Agreement**

Notwithstanding anything in Clause 1.1 (*Definitions*), references to the Finance Documents or a Finance Document in this Clause do not include any Hedging Agreement entered into by a Borrower with a Hedge Counterparty in connection with the Facility.

## **39 CALCULATIONS AND CERTIFICATES**

### **39.1 Accounts**

In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by a Finance Party are *prima facie* evidence of the matters to which they relate.

### **39.2 Certificates and determinations**

Any certification or determination by a Finance Party of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

### **39.3 Day count convention**

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 365 days or, in any case where the practice in the Relevant Interbank Market differs, in accordance with that market practice.

## **40 PARTIAL INVALIDITY**

If, at any time, any provision of a Finance Document is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions under the law of that jurisdiction nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

## **41 REMEDIES AND WAIVERS**

No failure to exercise, nor any delay in exercising, on the part of any Secured Party, any right or remedy under a Finance Document shall operate as a waiver of any such right or remedy or constitute an election to affirm any Finance Document. No election to affirm any Finance Document on the part of a Secured Party shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in each Finance Document are cumulative and not exclusive of any rights or remedies provided by law.

## **42 SETTLEMENT OR DISCHARGE CONDITIONAL**

Any settlement or discharge under any Finance Document between any Finance Party and any Transaction Obligor shall be conditional upon no security or payment to any Finance Party by any Transaction Obligor or any other person being set aside, adjusted or ordered to be repaid, whether under any insolvency law or otherwise.

### 43 IRREVOCABLE PAYMENT

If the Facility Agent considers that an amount paid or discharged by, or on behalf of, a Transaction Obligor or by any other person in purported payment or discharge of an obligation of that Transaction Obligor to a Secured Party under the Finance Documents is capable of being avoided or otherwise set aside on the liquidation or administration of that Transaction Obligor or otherwise, then that amount shall not be considered to have been unconditionally and irrevocably paid or discharged for the purposes of the Finance Documents.

### 44 AMENDMENTS AND WAIVERS

#### 44.1 Required consents

- (a) Subject to Clause 44.2 (*All Lender matters*) and Clause 44.3 (*Other exceptions*) any term of the Finance Documents may be amended or waived only with the consent of the Majority Lenders and, in the case of an amendment, the Obligors and any such amendment or waiver will be binding on all Parties.
- (b) The Facility Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause 44 (*Amendments and Waivers*).
- (c) Without prejudice to the generality of Clause 31.8 (*Rights and discretions*), the Facility Agent may at the Borrowers' cost engage, and rely on the services of lawyers in determining the consent level required for and effecting any amendment, waiver or consent under this Agreement.
- (d) Paragraph (c) of Clause 29.10 (*Pro rata interest settlement*) shall apply to this Clause 44 (*Amendments and Waivers*).

#### 44.2 All Lender matters

Subject to Clause 44.4 (*Replacement of Screen Rate*), an amendment of or waiver or consent in relation to any term of any Finance Document that has the effect of changing or which relates to:

- (a) the definition of "Majority Lenders" in Clause 1.1 (*Definitions*);
- (b) a postponement to or extension of the date of payment of any amount under the Finance Documents;
- (c) a reduction in the Margin or the amount of any payment of principal, interest, fees or commission payable;
- (d) a change in currency of payment of any amount under the Finance Documents;
- (e) an increase in any Commitment or the Total Commitments, an extension of any Availability Period or any requirement that a cancellation of Commitments reduces the Commitments rateably under the Facility;
- (f) a change to any Transaction Obligor other than in accordance with Clause 30 (*Changes to the Transaction Obligors*);

- (g) any provision which expressly requires the consent of all the Lenders;
- (h) this Clause 44 (*Amendments and Waivers*);
- (i) any change to the preamble (*Background*), Clause 2 (*The Facility*), Clause 3 (*Purpose*), Clause 5 (*Utilisation*), Clause 6.2 (*Effect of cancellation and prepayment on scheduled repayments*), Clause 7.5 (*Mandatory prepayment on sale or Total Loss*) or Clause 7.6 (*Mandatory prepayment of Hedging Prepayment Proceeds*), Clause 8 (*Interest*), Clause 25.10 (*Compliance with laws etc.*), Clause 25.12 (*Sanctions and Ship trading*), Clause 26.7(a) (*Accounts, application of Earnings and Hedge Receipts*), Clause 29 (*Changes to the Lenders*), Clause 34 (*Sharing among the Finance Parties*), Clause 48 (*Governing Law*) or Clause 49 (*Enforcement*);
- (j) any release of, or material variation to, any Transaction Security, guarantee, indemnity or subordination arrangement set out in a Finance Document;
- (k) (other than as expressly permitted by the provisions of any Finance Document), the nature or scope of:
  - (i) the guarantees and indemnities granted under Clause 17 (*Guarantee and Indemnity*);
  - (ii) the guarantees and indemnities granted under Clause 19 (*Guarantee and Indemnity – Hedge Guarantors*);
  - (iii) the joint and several liability of the Borrowers under Clause 18 (*Joint and Several Liability of the Borrowers*);
  - (iv) the Security Assets; or
  - (v) the manner in which the proceeds of enforcement of the Transaction Security are distributed,
 

(except in the case of sub-paragraphs (iv) and (v) above, insofar as it relates to a sale or disposal of an asset which is the subject of the Transaction Security where such sale or disposal is expressly permitted under this Agreement or any other Finance Document);
- (l) the release of the guarantees and indemnities granted under Clause 17 (*Guarantee and Indemnity*) or Clause 19 (*Guarantee and Indemnity – Hedge Guarantors*) or the release of the joint and several liability of the Borrowers under Clause 18 (*Joint and Several Liability of the Borrowers*) or of any Transaction Security unless permitted under this Agreement or any other Finance Document or relating to a sale or disposal of an asset which is the subject of the Transaction Security where such sale or disposal is expressly permitted under this Agreement or any other Finance Document;

shall not be made, or given, without the prior consent of all the Lenders.

#### **44.3 Other exceptions**

- (a) An amendment or waiver which relates to the rights or obligations of a Servicing Party or a Reference Bank (each in their capacity as such) may not be effected without the consent of that Servicing Party or that Reference Bank, as the case may be.

- (b) An amendment or waiver which relates to and would adversely affect the rights or obligations of a Hedge Counterparty (in its capacity as such) may not be effected without the consent of that Hedge Counterparty.
- (c) The Borrowers and the Facility Agent or the Security Agent, as applicable, may amend or waive a term of a Fee Letter to which they are party.
- (d) The relevant Hedge Counterparty and the relevant Borrower may amend, supplement or waive the terms of any Hedging Agreement or Hedge Counterparty Guarantee if permitted by paragraph (f) of Clause 8.5 (*Hedging*).

#### **44.4 Replacement of Screen Rate**

Subject to Clause 44.3 (*Other exceptions*), if a Screen Rate Replacement Event has occurred in relation to the Screen Rate for dollars any amendment or waiver which relates to:

- (a) providing for the use of a Replacement Benchmark in relation to that currency in place of (or in addition to) that Screen Rate; and
- (b) aligning any provision of any Finance Document to the use of that Replacement Benchmark;
  - (i) enabling that Replacement Benchmark to be used for the calculation of interest under this Agreement (including, without limitation, any consequential changes required to enable that Replacement Benchmark to be used for the purposes of this Agreement);
  - (ii) implementing market conventions applicable to that Replacement Benchmark;
  - (iii) providing for appropriate fallback (and market disruption) provisions for that Replacement Benchmark; or
  - (iv) adjusting the pricing to reduce or eliminate, to the extent reasonably practicable, any transfer of economic value from one Party to another as a result of the application of that Replacement Benchmark (and if any adjustment or method for calculating any adjustment has been formally designated, nominated or recommended by the Relevant Nominating Body, the adjustment shall be determined on the basis of that designation, nomination or recommendation),

may be made with the consent of the Facility Agent (acting on the instructions of the Majority Lenders) and the Borrowers.

- (c) If any Lender fails to respond to a request for an amendment or waiver described in paragraph (a) above within 10 Business Days (or such longer time period in relation to any request which the Borrowers and the Facility Agent (acting on the instructions of the Majority Lenders) may agree) of that request being made:
  - (i) its Commitment shall not be included for the purpose of calculating the Total Commitments when ascertaining whether any relevant percentage of Total Commitments has been obtained to approve that request; and
  - (ii) its status as a Lender shall be disregarded for the purpose of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve that request.

#### 44.5 Obligor Intent

Without prejudice to the generality of Clauses 1.2 (*Construction*), 17.4 (*Waiver of defences*), 18.2 (*Waiver of defences*) and 19.4 (*Waiver of defences*), each Obligor expressly confirms that it intends that any guarantee contained in this Agreement or any other Finance Document and any Security created by any Finance Document shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following: business acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

#### 44.6 Lenders' anti-boycott restrictions

- (a) In relation to any Lender that is resident in Germany ("**Inländer**") within the meaning of Section 2 Paragraph 15 of the German foreign trade and payments act called Außenwirtschaftsgesetz ("**AWG**"), therefore subject to Section 7 of the German foreign trade ordinance called Außenwirtschaftsverordnung ("**AWV**") or a subject required to comply with Council Regulation (EC) No. 2271/96 of 22 November 1996 (as amended by Commission Delegated Regulation (EU) 2018/1100 of 6 June 2018) and that notifies the Facility Agent in writing that it elects for the provisions of this Clause 44.6 (*Lenders' anti-boycott restrictions*) to apply to it (which notice may, for the avoidance of doubt, be given at any time) (each a "**Restricted Lender**"), Clauses 25.10 (*Compliance with laws*), and 25.12 (*Sanctions and Ship trading*) (together the "**Sanctions Related Provisions**") (or any of them as specified by that Restricted Lender in the notice) shall only apply for the benefit of each such Restricted Lender to the extent that application of any Sanctions Related Provision would not result in any violation of, conflict with, or liability under any provision of the Council Regulation (EC) No. 2271/96 of 22 November 1996 or Section 7 AWV (in connection with section 4 paragraph 1 no. 3 AWG) (or any replacement of or any supplement to any of the foregoing).
- (b) On any matter referred to in paragraph (a) above in respect of which the Lenders are to vote but in respect of which a Restricted Lender to whom paragraph (a) above applies shall not vote in accordance with such paragraph:
- (i) for the purposes of determining whether approval of the Majority Lenders is obtained the references in the definition of "Majority Lender" to 66 2/3 per cent of the Total Commitments and to 66 2/3 per cent of the Loan the outstanding shall for this purpose be construed to refer to 66 2/3 per cent of the Total Commitments or, as the case may be, the Loan only taking account of the other Commitments of, or as the case may be, the participation in the Loan of, the Lenders and ignoring the Commitment of or, as the case may be, the participation in the Loan of, such Restricted Lender;
  - (ii) an action taken by the Majority Lenders as such definition is modified by this Clause 44.6 (*Lenders' anti-boycott restrictions*) shall be valid in the applicable circumstances and binding on all parties to this Agreement; and

for the purposes of determining whether the approval of all Lenders is obtained, all Lenders shall be construed to mean the other Lenders ignoring such Restricted Lender and an action

taken by all Lenders as modified by this Clause 44.6 (*Lenders' anti-boycott restrictions*) shall be valid in the applicable circumstances and binding on all parties to this Agreement.

#### **44.7 Intercreditor Agreement**

This Clause 44 (*Amendments and Waivers*) is subject to the terms of the Intercreditor Agreement.

### **45 CONFIDENTIAL INFORMATION**

#### **45.1 Confidentiality**

Each Finance Party agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 45.2 (*Disclosure of Confidential Information*) and Clause 45.3 (*Disclosure to numbering service providers*) and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information.

#### **45.2 Disclosure of Confidential Information**

Any Finance Party may disclose:

- (a) to any of its Affiliates and Related Funds and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives such Confidential Information as that Finance Party shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;
- (b) to any person:
  - (i) to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Finance Documents or which succeeds (or which may potentially succeed) it as Facility Agent or Security Agent and, in each case, to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
  - (ii) with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, one or more Finance Documents and/or one or more Transaction Obligors and to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
  - (iii) appointed by any Finance Party or by a person to whom sub-paragraph (i) or (ii) of paragraph (b) above applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf (including, without limitation, any person appointed under paragraph (c) of Clause 31.15 (*Relationship with the other Finance Parties*));

- (iv) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in sub-paragraph (i) or (ii) of paragraph (b) above;
- (v) to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;
- (vi) to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitrations, administrative or other investigations, proceedings or disputes;
- (vii) to whom or for whose benefit that Finance Party charges, assigns or otherwise creates Security (or may do so) pursuant to Clause 29.8 (*Security over Lenders' rights*);
- (viii) who is a Party, a member of the Group or any related entity of a Transaction Obligor;
- (ix) as a result of the registration of any Finance Document as contemplated by any Finance Document or any legal opinion obtained in connection with any Finance Document;
- (x) with the consent of Guarantor A;

in each case, such Confidential Information as that Finance Party shall consider appropriate if:

- (A) in relation to sub-paragraphs (i), (ii) and (iii) of paragraph (b) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking except that there shall be no requirement for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;
  - (B) in relation to sub-paragraph (iv) of paragraph (b) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is otherwise bound by requirements of confidentiality in relation to the Confidential Information they receive and is informed that some or all of such Confidential Information may be price-sensitive information;
  - (C) in relation to sub-paragraphs (v), (vi) and (vii) of paragraph (b) above, the person to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of that Finance Party, it is not practicable so to do in the circumstances;
- (c) to any person appointed by that Finance Party or by a person to whom sub-paragraph (i) or (ii) of paragraph (b) above applies to provide administration or settlement services in respect of one or more of the Finance Documents including without limitation, in relation to the trading of participations in respect of the Finance Documents, such Confidential Information as may be required to be disclosed to enable such service provider to provide any of the services



referred to in this paragraph (c) if the service provider to whom the Confidential Information is to be given has entered in to a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Borrowers and the relevant Finance Party;

- (d) to any rating agency (including its professional advisers) such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Finance Documents and/or the Transaction Obligors if the rating agency to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information.

#### **45.3 Disclosure to numbering service providers**

- (a) Any Finance Party may disclose to any national or international numbering service provider appointed by that Finance Party to provide identification numbering services in respect of this Agreement, the Facility and/or one or more Transaction Obligors the following information:

- (i) names of Transaction Obligors;
- (ii) country of domicile of Transaction Obligors;
- (iii) place of incorporation or formation of Transaction Obligors;
- (iv) date of this Agreement;
- (v) Clause 48 (*Governing Law*);
- (vi) the name of the Facility Agent;
- (vii) date of each amendment and restatement of this Agreement;
- (viii) amount of Total Commitments;
- (ix) currency of the Facility;
- (x) type of Facility;
- (xi) ranking of Facility;
- (xii) Termination Date for Facility;
- (xiii) changes to any of the information previously supplied pursuant to sub-paragraphs (i) to (xii) above; and
- (xiv) such other information agreed between such Finance Party and the Borrowers,

to enable such numbering service provider to provide its usual syndicated loan numbering identification services.

- (b) The Parties acknowledge and agree that each identification number assigned to this Agreement, the Facility and/or one or more Transaction Obligors by a numbering service

provider and the information associated with each such number may be disclosed to users of its services in accordance with the standard terms and conditions of that numbering service provider.

- (c) Each Obligor represents, on behalf of itself and the other Transaction Obligors, that none of the information set out in sub-paragraphs (i) to (xiv) of paragraph (a) above is, nor will at any time be, unpublished price-sensitive information.
- (d) The Facility Agent shall notify Guarantor A and the other Finance Parties of:
  - (i) the name of any numbering service provider appointed by the Facility Agent in respect of this Agreement, the Facility and/or one or more Transaction Obligors; and
  - (ii) the number or, as the case may be, numbers assigned to this Agreement, the Facility and/or one or more Transaction Obligors by such numbering service provider.

#### **45.4 Entire agreement**

This Clause 45 (*Confidential Information*) constitutes the entire agreement between the Parties in relation to the obligations of the Finance Parties under the Finance Documents regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

#### **45.5 Inside information**

Each of the Finance Parties acknowledges that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and each of the Finance Parties undertakes not to use any Confidential Information for any unlawful purpose.

#### **45.6 Notification of disclosure**

Each of the Finance Parties agrees (to the extent permitted by law and regulation) to inform the Borrowers:

- (a) of the circumstances of any disclosure of Confidential Information made pursuant to sub-paragraph (v) of paragraph (b) of Clause 45.2 (*Disclosure of Confidential Information*) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
- (b) upon becoming aware that Confidential Information has been disclosed in breach of this Clause 45 (*Confidential Information*).

#### **45.7 Continuing obligations**

The obligations in this Clause 45 (*Confidential Information*) are continuing and, in particular, shall survive and remain binding on each Finance Party for a period of 12 months from the earlier of:

- (a) the date on which all amounts payable by the Obligors under or in connection with this Agreement have been paid in full and all Commitments have been cancelled or otherwise cease to be available; and
- (b) the date on which such Finance Party otherwise ceases to be a Finance Party.

#### **46 CONFIDENTIALITY OF FUNDING RATES AND REFERENCE BANK QUOTATIONS**

##### **46.1 Confidentiality and disclosure**

- (a) The Facility Agent and each Obligor agree to keep each Funding Rate (and, in the case of the Facility Agent, each Reference Bank Quotation) confidential and not to disclose it to anyone, save to the extent permitted by paragraphs (b), (c) and (d) below.
- (b) The Facility Agent may disclose:
  - (i) any Funding Rate (but not, for the avoidance of doubt, any Reference Bank Quotation) to the Borrower pursuant to Clause 8.4 (*Notification of rates of interest*); and
  - (ii) any Funding Rate or any Reference Bank Quotation to any person appointed by it to provide administration services in respect of one or more of the Finance Documents to the extent necessary to enable such service provider to provide those services if the service provider to whom that information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Facility Agent and the relevant Lender or Reference Bank, as the case may be.
- (c) The Facility Agent may disclose any Funding Rate or any Reference Bank Quotation, and each Obligor may disclose any Funding Rate, to:
  - (i) any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives, if any person to whom that Funding Rate or Reference Bank Quotation is to be given pursuant to this subparagraph (i) is informed in writing of its confidential nature and that it may be price sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of that Funding Rate or Reference Bank Quotation or is otherwise bound by requirements of confidentiality in relation to it;
  - (ii) any person to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation if the person to whom that Funding Rate or Reference Bank Quotation is to be given is informed in writing of its confidential nature and that it may be price sensitive information except that there shall be no requirement to so inform if, in the opinion of the Facility Agent or the relevant Obligor, as the case may be, it is not practicable to do so in the circumstances;
  - (iii) any person to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations,

proceedings or disputes if the person to whom that Funding Rate or Reference Bank Quotation is to be given is informed in writing of its confidential nature and that it may be price sensitive information except that there shall be no requirement to so inform if, in the opinion of the Facility Agent or the relevant Obligor, as the case may be, it is not practicable to do so in the circumstances; and

(iv) any person with the consent of the relevant Lender or Reference Bank, as the case may be.

(d) The Facility Agent's obligations in this Clause 46 (*Confidentiality of Funding Rates and Reference Bank Quotations*) relating to Reference Bank Quotations are without prejudice to its obligations to make notifications under Clause 8.4 (*Notification of rates of interest*) **Provided that** (other than pursuant to sub-paragraph (i) of paragraph (b) above) the Facility Agent shall not include the details of any individual Reference Bank Quotation as part of any such notification.

#### **46.2 Related obligations**

(a) The Facility Agent and each Obligor acknowledge that each Funding Rate (and, in the case of the Facility Agent, each Reference Bank Quotation) is or may be price sensitive information and that its use may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and the Facility Agent and each Obligor undertake not to use any Funding Rate or, in the case of the Facility Agent, any Reference Bank Quotation for any unlawful purpose.

(b) The Facility Agent and each Obligor agree (to the extent permitted by law and regulation) to inform the relevant Lender or Reference Bank, as the case may be:

(i) of the circumstances of any disclosure made pursuant to sub-paragraph (ii) of paragraph (c) of Clause 46.1 (*Confidentiality and disclosure*) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and

(ii) upon becoming aware that any information has been disclosed in breach of this Clause 46 (*Confidentiality of Funding Rates and Reference Bank Quotations*).

#### **46.3 No Event of Default**

No Event of Default will occur under Clause 28.4 (*Other obligations*) by reason only of an Obligor's failure to comply with this Clause 46 (*Confidentiality of Funding Rates and Reference Bank Quotations*).

#### **47 COUNTERPARTS**

Each Finance Document may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Finance Document.

## SECTION 12

### GOVERNING LAW AND ENFORCEMENT

#### 48 GOVERNING LAW

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

#### 49 ENFORCEMENT

##### 49.1 Jurisdiction

- (a) Unless specifically provided in another Finance Document in relation to that Finance Document, the courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with any Finance Document (including a dispute regarding the existence, validity or termination of any Finance Document or any non-contractual obligation arising out of or in connection with any Finance Document) (a "**Dispute**").
- (b) The Obligors accept that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Obligor will argue to the contrary.
- (c) This Clause 49.1 (*Jurisdiction*) is for the benefit of the Secured Parties only. As a result, no Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Secured Parties may take concurrent proceedings in any number of jurisdictions.

##### 49.2 Service of process

- (a) Without prejudice to any other mode of service allowed under any relevant law, each Obligor (other than an Obligor incorporated or formed in England and Wales):
  - (i) irrevocably appoints Saville & Co. at its registered office for the time being, presently at One Carey Lane, London EC2V 8AE, England as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document; and
  - (ii) agrees that failure by a process agent to notify the relevant Obligor of the process will not invalidate the proceedings concerned.
- (b) If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Borrowers (on behalf of all the Obligors) must immediately (and in any event within 3 days of such event taking place) appoint another agent on terms acceptable to the Facility Agent. Failing this, the Facility Agent may appoint another agent for this purpose.

**This Agreement has been entered into on the date stated at the beginning of this Agreement.**

**SCHEDULE 1**

**THE PARTIES**

**PART A**

**THE OBLIGORS**

<b>Name of Borrower</b>	<b>Place of Formation</b>	<b>Registration number (or equivalent, if any)</b>	<b>Address for Communication</b>
LAERTIS MARINE LLC	Marshall Islands	962564	c/o Technomar Shipping Inc. 3-5 Menandrou Street 145 61 Kifissia Greece  Fax no: +30 210 80 84 224
TELEMACHUS MARINE LLC	Marshall Islands	962562	c/o Technomar Shipping Inc. 3-5 Menandrou Street 145 61 Kifissia Greece  Fax no: +30 210 80 84 224
PENELOPE MARINE LLC	Marshall Islands	962563	c/o Technomar Shipping Inc. 3-5 Menandrou Street 145 61 Kifissia Greece  Fax no: +30 210 80 84 224
<b>Name of Guarantor</b>	<b>Place of Formation</b>	<b>Registration number (or equivalent, if any)</b>	<b>Address for Communication</b>
POSEIDON CONTAINERS HOLDINGS LLC	Marshall Islands	961853	c/o Technomar Shipping Inc. 3-5 Menandrou Street 145 61 Kifissia Greece

ODYSSIA CONTAINERS HOLDINGS LLC	Marshall Islands	962559	Fax no: +30 210 80 84 224 c/o Technomar Shipping Inc. 3-5 Menandrou Street 145 61 Kifissia Greece
K&T MARINE LLC	Marshall Islands	962273	Fax no: +30 210 80 84 224 c/o Technomar Shipping Inc. 3-5 Menandrou Street 145 61 Kifissia Greece
<b>Name of Hedge Guarantor</b>	<b>Place of Formation</b>	<b>Registration number (or equivalent, if any)</b>	<b>Address for Communication</b>
LAERTIS MARINE LLC	Marshall Islands	962564	Trust Company Complex, Ajeltake Road, Ajeltake Island, MH96960, Majuro, Marshall Islands
TELEMACHUS MARINE LLC	Marshall Islands	962562	Trust Company Complex, Ajeltake Road, Ajeltake Island, MH96960, Majuro, Marshall Islands
PENELOPE MARINE LLC	Marshall Islands	962563	Trust Company Complex, Ajeltake Road, Ajeltake Island, MH96960, Majuro, Marshall Islands

PART B

THE ORIGINAL LENDERS

Name of Original Lender	Commitment	Address for Communication
DEUTSCHE BANK AG, LONDON BRANCH	US\$10,000,000	Winchester House 1 Great Winchester Street London EC2N 2DB  Tel No: +44 207 54 58000 S  Email:  FAO: Global Credit Trading – Shipping
BLUE OCEAN INCOME FUND LP	US\$3,531,635.40	c/o EnTrustPermal Partners Offshore LP 375 Park Avenue 24 <sup>th</sup> Floor New York NY 10152 USA  Fax: +1 212 888 0751  Email: sengh@entrustpermal.com / odonnerstein@entrustpermal.com / mlux@entrustpermal.com  Attention: Svein Engh / Omer Donnerstein / Matthew Lux
BLUE OCEAN ONSHORE FUND LP	US\$1,461,651.40	c/o EnTrustPermal Partners Offshore LP 375 Park Avenue 24 <sup>th</sup> Floor New York NY 10152 USA  Fax: +1 212 888 0751  Email: sengh@entrustpermal.com / odonnerstein@entrustpermal.com / mlux@entrustpermal.com  Attention: Svein Engh / Omer Donnerstein / Matthew Lux



ENTRUSTPERMAL ICAV, for and on behalf of US\$11,041,880.28  
Blue Ocean Fund

c/o EnTrustPermal Partners Offshore LP  
375 Park Avenue  
24<sup>th</sup> Floor  
New York  
NY 10152 USA

Fax: +1 212 888 0751

Email: sengh@entrustpermal.com /  
odonnerstein@entrustpermal.com /  
mlux@entrustpermal.com

Attention: Svein Engh / Omer Donnerstein /  
Matthew Lux

BLUE OCEAN INVESTMENTS SPC, for and on US\$2,564,832.92  
behalf of Segregated Portfolio One

c/o EnTrustPermal Partners Offshore LP  
375 Park Avenue  
24<sup>th</sup> Floor  
New York  
NY 10152 USA

Fax: +1 212 888 0751

Email: sengh@entrustpermal.com /  
odonnerstein@entrustpermal.com /  
mlux@entrustpermal.com

Attention: Svein Engh / Omer Donnerstein /  
Matthew Lux

BLUE OCEAN INVESTMENTS SPC, for and on US\$10,000,000  
behalf of Segregated Portfolio Two

c/o EnTrustPermal Partners Offshore LP  
375 Park Avenue  
24<sup>th</sup> Floor  
New York  
NY 10152 USA

Fax: +1 212 888 0751

Email: sengh@entrustpermal.com /  
odonnerstein@entrustpermal.com /  
mlux@entrustpermal.com

Attention: Svein Engh / Omer Donnerstein /  
Matthew Lux

## THE HEDGE COUNTERPARTIES

### Name of Hedge Counterparty

DEUTSCHE BANK AG, LONDON BRANCH

### Address for Communication

Winchester House  
1 Great Winchester Street  
London EC2N 2DB

Tel No: +44 207 54 58000

Email:

FAO: Global Credit Trading – Shipping

**PART C**

**THE SERVICING PARTIES**

**Name of Facility Agent**

WILMINGTON TRUST (LONDON) LIMITED

**Address for Communication**

1 King's Arms Yard, London,

EC2R 7AF, England

Tel No: 44 (0)20 7397 3653 /  
+44 (0)20 7397 3649

Fax No: +44 (0)20 7397 3601

Email: mmassaki@wilmingtontrust.com /  
kreader@wilmingtontrust.com

FAO: Marcy Massaki / Keith Reader

**Name of Security Agent**

WILMINGTON TRUST (LONDON) LIMITED

**Address for Communication**

1 King's Arms Yard, London,

EC2R 7AF, England

Tel No: 44 (0)20 7397 3653 /  
+44 (0)20 7397 3649

Fax No: +44 (0)20 7397 3601

Email: mmassaki@wilmingtontrust.com /  
kreader@wilmingtontrust.com

FAO: Marcy Massaki / Keith Reader

## SCHEDULE 2

### CONDITIONS PRECEDENT

#### 1 Obligors

- 1.1 A copy of the constitutional documents of each Borrower, each Guarantor and Odysia NB or confirmation from such party that the constitutional documents delivered to the Senior Facility Agent upon the original execution of the Senior Facility Agreement remain true and up-to-date in all respects and have not been amended or modified.
- 1.2 A copy of a resolution of the member or board of directors (as applicable) of each Borrower, each Guarantor and Odysia NB:
  - (a) approving the terms of, and the transactions contemplated by, the Relevant Retrenching Documents to which it is a party and resolving that it execute the Relevant Retrenching Documents to which it is a party;
  - (b) authorising a specified person or persons to execute the Relevant Retrenching Documents to which it is a party on its behalf; and
  - (c) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, a Utilisation Request and each Selection Notice) to be signed and/or despatched by it under, or in connection with, the Relevant Retrenching Documents to which it is a party.
- 1.3 An original of the power of attorney of each Borrower, each Guarantor and Odysia NB authorising a specified person or persons to execute the Relevant Retrenching Documents to which it is a party.
- 1.4 A specimen of the signature of each person authorised by the resolution referred to in paragraph 1.2 above.
- 1.5 If required, a copy of a resolution signed by Odysia NB as the holder of all issued LLC Shares in each Borrower, approving the terms of, and the transactions contemplated by, the Retrenching Documents to which that Borrower is a party.
- 1.6 A certificate of an authorised signatory of the relevant Transaction Obligor certifying that each copy document relating to it specified in this Schedule 2 (*Conditions Precedent*) is correct, complete and in full force and effect as at a date no earlier than the date of this Agreement.

#### 2 Relevant Retrenching Documents

- 2.1 A duly executed original of each Relevant Retrenching Document.
- 2.2 A duly executed original of any other document required to be delivered by each Relevant Retrenching Document if not otherwise referred to this Schedule 2 (*Conditions Precedent*).
- 2.3 A copy of the Amendment and Restatement Deed.

### **3 Legal opinions**

- 3.1 A legal opinion of White & Case LLP, legal advisers to the Facility Agent and the Security Agent in England addressed to the Facility Agent and in form satisfactory to the Facility Agent acting on the instructions of the Lenders.
- 3.2 If a Transaction Obligor is incorporated or formed in a jurisdiction other than England and Wales, a legal opinion (in agreed form where applicable) of the legal advisers to the Facility Agent and the Security Agent in the relevant jurisdiction in form satisfactory to the Facility Agent acting on the instructions of the Lenders.
- 3.3 Reliance letters from Watson, Farley & Williams LLP in form and substance satisfactory to the Facility Agent acting on the instructions of the Lenders confirming the enforceability of the original German law account pledges and the original Mortgages.
- 3.4 An amended and reissued English law opinion from Watson, Farley & Williams LLP in form and substance satisfactory to the Facility Agent acting on the instructions of the Lenders confirming the enforceability and validity of the English law security.

### **4 Other documents and evidence**

- 4.1 Evidence that any process agent referred to in Clause 49.2 (*Service of process*), if not an Obligor, has accepted its appointment.
- 4.2 A copy of any other Authorisation or other document, opinion or assurance which the Facility Agent (acting on the instructions of the Majority Lenders) considers to be necessary or desirable if the Facility Agent (acting on the instructions of the Majority Lenders) has notified the Borrowers accordingly in connection with the entry into and performance of the transactions contemplated by any Retrenching Document or for the validity and enforceability of any Retrenching Document.
- 4.3 Copies of any notices delivered to perfect the Transaction Security.
- 4.4 Such evidence as may be required for the Finance Parties to be able to satisfy each of their “anti-money laundering”, “FATCA”, “know your customer”, “common reporting standards” or similar identification procedures in relation to the transactions contemplated by the Finance Documents.

SCHEDULE 3

REQUESTS

PART A

UTILISATION REQUEST

From: LAERTIS MARINE LLC  
PENELOPE MARINE LLC  
TELEMACHUS MARINE LLC

To: WILMINGTON TRUST (LONDON) LIMITED

Dated: [●]

Dear Sirs

**Laertis Marine LLC, Penelope Marine LLC, Telemachus Marine LLC – US\$38,600,000 Facility Agreement dated [●] 2018 (the “Agreement”)**

- 1 We refer to the Agreement. This is a Utilisation Request. Terms defined in the Agreement have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request.
- 2 We wish to borrow the Loan on the following terms:  
  
Proposed Utilisation Date: [●] (or, if that is not a Business Day, the next Business Day)  
  
Amount: [●]  
  
Interest Period: [●]
- 3 We confirm that each condition specified in Clause 4.1 (*Initial conditions precedent*) is satisfied on the date of this Utilisation Request.
- 4 The proceeds of the Loan should be credited to [account of Senior Facility Agent].
- 5 This Utilisation Request is irrevocable.

Yours faithfully

\_\_\_\_\_  
[●]  
authorised signatory for  
LAERTIS MARINE LLC

\_\_\_\_\_  
[●]  
authorised signatory for  
TELEMACHUS MARINE LLC

\_\_\_\_\_  
[•]  
authorised signatory for  
**PENELOPE MARINE LLC**

**PART B**  
**SELECTION NOTICE**

From: Laertis Marine LLC  
Penelope Marine LLC  
Telemachus Marine LLC

To: Wilmington Trust (London) Limited

Dated: [●]

Dear Sirs

**Laertis Marine LLC, Penelope Marine LLC, Telemachus Marine LLC – US\$38,600,000 Junior Facility Agreement dated [●] 2018 (the “Agreement”)**

- 1 We refer to the Agreement. This is a Selection Notice. Terms defined in the Agreement have the same meaning in this Selection Notice unless given a different meaning in this Selection Notice.
- 2 We request [that the next Interest Period for the Loan be [●]] OR [an Interest Period for a part of the Loan in an amount equal to [●] (which is the amount of the Repayment Instalment next due) ending on [●] (which is the Repayment Date relating to that Repayment Instalment) and that the Interest Period for the remaining part of the Loan shall be [●].
- 3 This Selection Notice is irrevocable.

Yours faithfully

\_\_\_\_\_  
[●]  
authorised signatory for  
**LAERTIS MARINE LLC**

\_\_\_\_\_  
[●]  
authorised signatory for  
**TELEMACHUS MARINE LLC**

\_\_\_\_\_  
[●]  
authorised signatory for  
**PENELOPE MARINE LLC**



**SCHEDULE 4**

**FORM OF TRANSFER CERTIFICATE**

To: Wilmington Trust (London) Limited as Facility Agent  
From: [The Existing Lender] (the "**Existing Lender**") and [The New Lender] (the "**New Lender**")

Dated: [●]

Dear Sirs

**Laertis Marine LLC, Penelope Marine LLC, Telemachus Marine LLC – US\$38,600,000 Junior Facility Agreement dated [●] 2018 (the "Agreement")**

- 1 We refer to the Agreement and to the Intercreditor Agreement (as defined in the Agreement). This Transfer Certificate shall take effect as a Transfer Certificate for the purposes of the Agreement and as a Creditor Accession Undertaking for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement). Terms defined in the Agreement have the same meaning in this Transfer Certificate unless given a different meaning in this Transfer Certificate.
- 2 We refer to Clause 29.5 (*Procedure for transfer*) of the Agreement:
  - (a) The Existing Lender and the New Lender agree to the Existing Lender transferring to the New Lender by novation all of the Existing Lender's rights and obligations under the Agreement and the other Finance Documents which relate to that portion of the Existing Lender's Commitment and participation in the Loan under the Agreement as specified in the Schedule in accordance with Clause 29.5 (*Procedure for transfer*) of the Agreement.
  - (b) The proposed Transfer Date is [●].
  - (c) The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of Clause 38.2 (*Addresses*) of the Agreement are set out in the Schedule.
- 3 The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in paragraph (c) of Clause 29.4 (*Limitation of responsibility of Existing Lenders*) of the Agreement.
- 4 This Transfer Certificate may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Transfer Certificate.
- 5 We refer to clause [●] (*Change of Senior Lender or Junior Lender*) of the Intercreditor Agreement. In consideration of the New Lender being accepted as a Junior Lender for the purposes of (and as defined in) the Intercreditor Agreement, the New Lender confirms that, as from the Transfer Date, it intends to be party to the Intercreditor Agreement as a Junior Lender and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by a Junior Lender and agrees that it shall be bound by all the provisions of the Intercreditor Agreement as it had been an original party to the Intercreditor Agreement.
- 6 This Transfer Certificate and any non-contractual obligations arising out of or in connection with it are governed by English law.

7 This Transfer Certificate has been entered into on the date stated at the beginning of this Transfer Certificate.

**Note: The execution of this Transfer Certificate may not transfer a proportionate share of the Existing Lender's interest in the Transaction Security in all jurisdictions. It is the responsibility of the New Lender to ascertain whether any other documents or other formalities are required to perfect a transfer of such a share in the Existing Lender's Transaction Security in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.**

**THE SCHEDULE**

**Commitment/rights and obligations to be transferred**

*[insert relevant details]*

[Facility Office address, fax number and attention details  
for notices and account details for payments.]

[Existing Lender]

[New Lender]

By: [●]

By: [●]

This Transfer Certificate is accepted by the Facility Agent as a Transfer Certificate for the purposes of the Agreement, and by the Security Agent as a Creditor Accession Undertaking for the purposes of the Intercreditor Agreement and the Transfer Date is confirmed as [●].

Wilmington Trust (London) Limited  
as Facility Agent  
By: [●]

Wilmington Trust (London) Limited  
as Security Agent  
By: [●]

**SCHEDULE 5**

**FORM OF ASSIGNMENT AGREEMENT**

To: Wilmington Trust (London) Limited as Facility Agent and [●] and [●] as Borrowers, for and on behalf of each [Transaction] Obligor  
From: [the Existing Lender] (the “Existing Lender”) and [the New Lender] (the “New Lender”)

Dated: [●]

Dear Sirs

**Laertis Marine LLC, Penelope Marine LLC, Telemachus Marine LLC – US\$38,600,000 Junior Facility Agreement dated [●] 2018 (the “Agreement”)**

- 1 We refer to the Agreement and to the Intercreditor Agreement. This is an Assignment Agreement. This agreement shall take effect as an Assignment Agreement for the purposes of the Agreement and as a Creditor Accession Undertaking for the purposes of (and as defined in) the Intercreditor Agreement. Terms defined in the Agreement have the same meaning in this Assignment Agreement unless given a different meaning in this Assignment Agreement.
- 2 We refer to Clause 29.6 (*Procedure for assignment*) of the Agreement:
  - (a) The Existing Lender assigns absolutely to the New Lender all the rights of the Existing Lender under the Agreement, the other Finance Documents and in respect of the Transaction Security which correspond to that portion of the Existing Lender's Commitment and participations in the Loan under the Agreement as specified in the Schedule.
  - (b) The Existing Lender is released from all the obligations of the Existing Lender which correspond to that portion of the Existing Lender's Commitments and participations in the Loan under the Agreement specified in the Schedule.
  - (c) The New Lender becomes a Party as a Lender and is bound by obligations equivalent to those from which the Existing Lender is released under paragraph (b) above.
  - (d) All rights and interests (present, future or contingent) which the Existing Lender has under or by virtue of the Finance Documents are assigned to the New Lender absolutely, free of any defects in the Existing Lender's title and of any rights or equities which the Borrower or any other [Transaction] Obligor had against the Existing Lender.
- 3 The proposed Transfer Date is [●].
- 4 On the Transfer Date the New Lender becomes:
  - (a) Party to the Finance Documents (other than the Intercreditor Agreement) as a Lender; and
  - (b) Party to the Intercreditor Agreement as a Junior Lender (as defined in the Intercreditor Agreement).

- 5 The Facility Office and address, fax, number and attention details for notices of the New Lender for the purposes of Clause 38.2 (*Addresses*) of the Agreement are set out in the Schedule.
- 6 The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in paragraph (c) of Clause 29.4 (*Limitation of responsibility of Existing Lenders*) of the Agreement.
- 7 This Assignment Agreement acts as notice to the Facility Agent (on behalf of each Finance Party) and, upon delivery in accordance with Clause 29.7 (*Copy of Transfer Certificate or Assignment Agreement to Borrowers*) of the Agreement, to the Borrowers (on behalf of each [Transaction] Obligor) of the assignment referred to in this Assignment Agreement.
- 8 We refer to clause [●] (*Change of Senior Lender or Junior Lender*) of the Intercreditor Agreement. In consideration of the New Lender accepted as a Junior Lender for the purposes of (and as defined in) the Intercreditor Agreement, the New Lender confirms that, as from the Transfer Date, it intends to be party to the Intercreditor Agreement as a Junior Lender and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by a Junior Lender and agrees that it shall be bound by all the provisions of the Intercreditor Agreement as it had been an original party to the Intercreditor Agreement.
- This Assignment Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Assignment Agreement.
- 9 This Assignment Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
- 10 This Assignment Agreement has been entered into on the date stated at the beginning of this Assignment Agreement.

**Note: The execution of this Assignment Agreement may not transfer a proportionate share of the Existing Lender's interest in the Transaction Security in all jurisdictions. It is the responsibility of the New Lender to ascertain whether any other documents or other formalities are required to perfect a transfer of such a share in the Existing Lender's Transaction Security in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.**

**THE SCHEDULE**

**Commitment rights and obligations to be transferred by assignment, release and accession**

*[insert relevant details]*

[Facility office address, fax number and attention details for notices  
and account details for payments]

[Existing Lender]

[New Lender]

By: [●]

By: [●]

This Assignment Agreement is accepted by the Facility Agent as an Assignment Agreement for the purposes of the Agreement and by the Security Agent as a Creditor Accession Undertaking for the purposes of the Intercreditor Agreement, and the Transfer Date is confirmed as [●].

Signature of this Assignment Agreement by the Facility Agent constitutes confirmation by the Facility Agent of receipt of notice of the assignment referred to herein, which notice the Facility Agent receives on behalf of each Finance Party.

**WILMINGTON TRUST (LONDON) LIMITED**

as Facility Agent

By:

**WILMINGTON TRUST (LONDON) LIMITED**

as Security Agent

By: [●]

SCHEDULE 6

FORM OF COMPLIANCE CERTIFICATE

To: Wilmington Trust (London) Limited as Facility Agent

From: [●]

Dated: [●]

Dear Sirs

**Laertis Marine LLC, Penelope Marine LLC, Telemachus Marine LLC – US\$38,600,000 Junior Facility Agreement dated [●] 2018 (the “Agreement”)**

- 1 We refer to the Agreement. This is a Compliance Certificate. Terms defined in the Agreement have the same meaning when used in this Compliance Certificate unless given a different meaning in this Compliance Certificate.
- 2 We confirm that: [Insert details of covenants to be certified]
- 3 [We confirm that no Default is continuing.]

Signed:

\_\_\_\_\_  
[Officer title]  
of  
[●]

\_\_\_\_\_  
[Officer title]  
of  
[●]

[insert applicable certification language]

\_\_\_\_\_  
for and on behalf of  
[●]

SCHEDULE 7

DETAILS OF THE SHIPS

Ship name	Name of the Borrower owner	Type	GRT	NRT	Approved Flag	Approved Classification Society	Approved Classification	Approved Commercial Manager	Approved Technical Manager
UASC AL KHOR	Laertis Marine LLC	Container vessel	94416	54249	Liberia	DNV-GL	Hull X 100 A5 HLP RSD(F25) IW BWM(D2) DG Container Ship, LC, RSCS <u>Machinery</u> X MC AUT CM-PS EP-D	Conchart Commercial Inc	Technomar Shipping Inc.
ANTHEA Y	Telemachus Marine LLC	Container vessel	94416	54249	Liberia		Hull X 100 A5 HLP RSD(F25) IW BWM(D2) DG Container Ship, LC, RSCS <u>Machinery</u> X MC AUT CM-PS EP-D	Conchart Commercial Inc	Technomar Shipping Inc.
MAIRA XL	Penelope Marine LLC	Container vessel	94416	54249	Liberia		Hull X 100 A5 HLP RSD(F25) IW BWM(D2) DG Container Ship, LC, RSCS <u>Machinery</u> X MC AUT CM-PS EP-D	Conchart Commercial Inc.	Technomar Shipping Inc.



SCHEDULE 8

[INTENTIONALLY OMITTED]

**SCHEDULE 9**

**TIMETABLES**

Delivery of a duly completed Selection Notice (Clause 9.1  
(*Selection of Interest Periods*))

Three Business Days before the expiry of the preceding Interest  
Period (Clause 9.1 (*Selection of Interest Periods*))

LIBOR is fixed

Quotation Day as of 11:00 am London time

Reference Bank Rate calculated by reference to available  
quotations in accordance with Clause 10.2 (*Calculation of  
Reference Bank Rate*)

Noon on the Quotation Day

EXECUTION PAGES

**BORROWERS**

**SIGNED** by Dimitrios Tsiaklaganos ) /s/ Dimitrios Tsiaklaganos  
duly authorised )  
attorney-in-fact )  
for and on behalf of )  
**LAERTIS MARINE LLC** )  
in the presence of: )

Witness' signature: ) /s/ Filanthi P. Katsafadou  
Witness' name: Filanthi P. Katsafadou )  
Witness' address: Attorney-at-law )  
Theo V. Sioufas & Co. Law Offices  
13, Defteras Merachias Street  
Piraeus 185 35 Greece

**SIGNED** by Dimitrios Tsiaklaganos ) /s/ Dimitrios Tsiaklaganos  
duly authorised )  
attorney-in-fact )  
for and on behalf of )  
**PENELOPE MARINE LLC** )  
in the presence of: )

Witness' signature: ) /s/ Filanthi P. Katsafadou  
Witness' name: Filanthi P. Katsafadou )  
Witness' address: Attorney-at-law )  
Theo V. Sioufas & Co. Law Offices  
13, Defteras Merachias Street  
Piraeus 185 35 Greece

**SIGNED** by Dimitrios Tsiaklaganos ) /s/ Dimitrios Tsiaklaganos  
duly authorised )  
attorney-in-fact )  
for and on behalf of )  
**TELEMACHUS MARINE LLC** )  
in the presence of: )

Witness' signature: ) /s/ Filanthi P. Katsafadou  
Witness' name: Filanthi P. Katsafadou )  
Witness' address: Attorney-at-law )  
Theo V. Sioufas & Co. Law Offices  
13, Defteras Merachias Street  
Piraeus 185 35 Greece

**GUARANTORS**

**SIGNED** by Dimitrios Tsiaklaganos ) /s/ Dimitrios Tsiaklaganos  
duly authorised )  
attorney-in-fact )  
for and on behalf of )  
**POSEIDON CONTAINERS HOLDINGS LLC)**  
in the presence of: )

Witness' signature: ) /s/ Filanthi P. Katsafadou  
Witness' name: Filanthi P. Katsafadou )  
Witness' address: Attorney-at-law )  
Theo V. Sioufas & Co. Law Offices  
13, Defteras Merachias Street  
Piraeus 185 35 Greece

**SIGNED** by Dimitrios Tsiaklaganos ) /s/ Dimitrios Tsiaklaganos  
duly authorised )  
for and on behalf of )  
attorney-in-fact )  
**ODYSSIA CONTAINERS HOLDINGS )  
LLC )**  
in the presence of: )

Witness' signature: ) /s/ Filanthi P. Katsafadou  
Witness' name: Filanthi P. Katsafadou )  
Witness' address: Attorney-at-law )  
Theo V. Sioufas & Co. Law Offices  
13, Defteras Merachias Street  
Piraeus 185 35 Greece

**SIGNED** by Dimitrios Tsiaklaganos ) /s/ Dimitrios Tsiaklaganos  
duly authorised )  
attorney-in-fact )  
for and on behalf of )  
**K&T MARINE LLC )**  
in the presence of: )

Witness' signature: ) /s/ Filanthi P. Katsafadou  
Witness' name: Filanthi P. Katsafadou )  
Witness' address: Attorney-at-law )  
Theo V. Sioufas & Co. Law Offices  
13, Defteras Merachias Street  
Piraeus 185 35 Greece

**HEDGE GUARANTORS**

**SIGNED** by Dimitrios Tsiaklaganos ) /s/ Dimitrios Tsiaklaganos  
duly authorised )  
attorney-in-fact )  
for and on behalf of )  
**LAERTIS MARINE LLC** )  
in the presence of: )

Witness' signature: ) /s/ Filanthi P. Katsafadou  
Witness' name: Filanthi P. Katsafadou )  
Witness' address: Attorney-at-law )  
Theo V. Sioufas & Co. Law Offices  
13, Defteras Merachias Street  
Piraeus 185 35 Greece

**SIGNED** by Dimitrios Tsiaklaganos ) /s/ Dimitrios Tsiaklaganos  
duly authorised )  
attorney-in-fact )  
for and on behalf of )  
**PENELOPE MARINE LLC** )  
in the presence of: )

Witness' signature: ) /s/ Filanthi P. Katsafadou  
Witness' name: Filanthi P. Katsafadou )  
Witness' address: Attorney-at-law )  
Theo V. Sioufas & Co. Law Offices  
13, Defteras Merachias Street  
Piraeus 185 35 Greece

**SIGNED** by Dimitrios Tsiaklaganos ) /s/ Dimitrios Tsiaklaganos3  
duly authorised )  
attorney-in-fact )  
for and on behalf of )  
**TELEMACHUS MARINE LLC** )  
in the presence of: )

Witness' signature: ) /s/ Filanthi P. Katsafadou  
Witness' name: Filanthi P. Katsafadou )  
Witness' address: Attorney-at-law )  
Theo V. Sioufas & Co. Law Offices  
13, Defteras Merachias Street  
Piraeus 185 35 Greece

**ORIGINAL LENDERS**

**SIGNED** by ) /s/ Adam Woollaston /s/ Timothy Coughlin  
duly authorised ) Adam Woollaston Timothy Coughlin  
attorney-in-fact )  
for and on behalf of )  
**DEUTSCHE BANK AG, LONDON** )  
**BRANCH** )  
in the presence of: )

Witness' signature: ) /s/ Amanda Dean /s/ Richard Bath  
Witness' name: ) Amanda Dean Richard Bath  
Witness' address: ) Deutsche Bank AG London  
Winchester House  
1 Great Winchester Street  
London EC2N 2DB

**SIGNED** by ) /s/ Svein Engh  
duly authorised ) Svein Engh  
attorney-in-fact ) Managing Director, Portfolio Manager  
for and on behalf of )  
**BLUE OCEAN INCOME FUND LP** )  
By Blue Ocean GP LLC, as its general )  
partner )  
in the presence of: )

Witness' signature: ) /s/ Kenneth Park  
Witness' name: ) Kenneth Park  
Witness' address: ) 375 Park Avenue, New York, NY 10152

**SIGNED** by ) /s/ Svein Engh  
duly authorised ) Svein Engh  
attorney-in-fact ) Managing Director, Portfolio Manager  
for and on behalf of )  
**BLUE OCEAN ONSHORE FUND LP** )  
By Blue Ocean GP LLC, as its general )  
partner )  
in the presence of: )

Witness' signature: ) /s/ Kenneth Park  
Witness' name: ) Kenneth Park  
Witness' address: ) 375 Park Avenue, New York, NY 10152

**SIGNED** by ) /s/ Svein Engh  
duly authorised ) Svein Engh  
attorney-in-fact ) Managing Director, Portfolio Manager  
for and on behalf of )  
**ENTRUSTPERMAL ICAV, for and on** )  
**behalf of Blue Ocean Fund** )  
By EnTrustPermal Partners Offshore LP )  
as its investment adviser )  
in the presence of: )

Witness' signature: ) /s/ Kenneth Park  
Witness' name: ) Kenneth Park  
Witness' address: ) 375 Park Avenue, New York, NY 10152

**SIGNED** by ) /s/ Svein Engh  
duly authorised )Svein Engh  
attorney-in-fact ) Managing Director, Portfolio Manager  
for and on behalf of )  
**BLUE OCEAN INVESTMENTS SPC, for** )  
**and on behalf of Segregated Portfolio** )  
**One** )  
By EnTrustPermal Partners Offshore LP )  
as its investment adviser )  
in the presence of: )

Witness' signature: ) /s/ Kenneth Park  
Witness' name: ) Kenneth Park  
Witness' address: ) 375 Park Avenue, New York, NY 10152

**SIGNED** by ) /s/ Svein Engh  
duly authorised ) Svein Engh  
attorney-in-fact ) Managing Director, Portfolio Manager  
for and on behalf of )  
**BLUE OCEAN INVESTMENTS SPC, for** )  
**and on behalf of Segregated Portfolio** )  
**Two** )  
By EnTrustPermal Partners Offshore LP )  
as its investment adviser )  
in the presence of: )

Witness' signature: ) /s/ Kenneth Park  
Witness' name: ) Kenneth Park  
Witness' address: ) 375 Park Avenue, New York, NY 10152

**HEDGE COUNTERPARTIES**

**SIGNED** by ) /s/ Adam Woollaston /s/ Timothy Coughlin  
duly authorised ) Adam Woollaston Timothy Coughlin  
attorney-in-fact )  
for and on behalf of )  
**DEUTSCHE BANK AG, LONDON BRANCH)**  
in the presence of: )

Witness' signature: ) /s/ Amanda Dean /s/ Richard Bath  
Witness' name: ) Amanda Dean Richard Bath  
Witness' address: ) Deutsche Bank AG London  
Winchester House  
1 Great Winchester Street  
London EC2N 2DB



**FACILITY AGENT**

**SIGNED** by ) /s/ Sajada Afzal  
duly authorised ) Sajada Afzal  
)Vice President  
for and on behalf of )  
**WILMINGTON TRUST** )  
**(LONDON) LIMITED** )  
)  
in the presence of: )

Witness' signature: ) /s/ Marcy Massaki  
Witness' name: ) Marcy Massaki  
Witness' address: ) Wilmington Trust (London) Limited  
Third Floor  
1 King's Arms Yard  
London EC2R 7AF

**SECURITY AGENT**

**SIGNED** by ) /s/ Sajada Afzal  
duly authorised ) Sajada Afzal  
) Vice President  
for and on behalf of )  
**WILMINGTON TRUST** )  
**(LONDON) LIMITED** )  
in the presence of: )

Witness' signature: ) /s/ Marcy Massaki  
Witness' name: ) Marcy Massaki  
Witness' address: ) Wilmington Trust (London) Limited  
Third Floor  
1 King's Arms Yard  
London EC2R 7AF



Private and Confidential

DATED 7 SEPTEMBER 2018

- (1) **GLOBAL SHIP LEASE INVESTMENTS, INC.**  
(as Borrower)
- (2) **GLOBAL SHIP LEASE 26 LIMITED**  
(as Original Vessel Owner)
- (3) **GSL HOLDINGS, INC.**  
(as Parent)
- (4) **GLOBAL SHIP LEASE, INC.**  
(as Ultimate Parent)
- (5) **THE FINANCIAL INSTITUTIONS LISTED IN SCHEDULE 1 PART II**  
(as Original Lenders)
- (6) **HAYFIN SERVICES LLP**  
(as Agent)
- (7) **HAYFIN SERVICES LLP**  
(as Security Agent)

## **FACILITY AGREEMENT**

SECURED TERM LOAN FACILITY OF UP TO US\$65,000,000

EXECUTION VERSION

**ReedSmith**

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THIS AGREEMENT is dated 7 September 2018

**BETWEEN:**

- (1) **GLOBAL SHIP LEASE INVESTMENTS, INC.**, a corporation incorporated under the laws of the Republic of the Marshall Islands whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, the Republic of the Marshall Islands, MH 96960 (“**Borrower**”)
- (2) **GLOBAL SHIP LEASE 26 LIMITED**, a company incorporated under the laws of Hong Kong whose registered office is at 27<sup>th</sup> Floor Alexandra House, 18 Chater Road, Central, Hong Kong as vessel owner (“**Original Vessel Owner**”);
- (3) **GSL HOLDINGS, INC.**, a corporation incorporated under the laws of the Republic of the Marshall Islands whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, the Republic of the Marshall Islands, MH 96960 (“**Parent**”);
- (4) **GLOBAL SHIP LEASE, INC.**, a corporation incorporated under the laws of the Republic of the Marshall Islands whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, the Republic of the Marshall Islands, MH 96960 (“**Ultimate Parent**”);
- (5) **THE FINANCIAL INSTITUTIONS** listed in Part II of Schedule 1 (*The Original Parties*) as lenders (“**Original Lenders**”);
- (6) **HAYFIN SERVICES LLP** as agent of the Finance Parties (“**Agent**”); and
- (7) **HAYFIN SERVICES LLP** as security agent for the Finance Parties (“**Security Agent**”).

**BACKGROUND**

The Lenders have agreed to make available to the Borrower a loan facility of up to the Maximum Loan Amount for the purposes of financing or refinancing part of the acquisition cost of the Vessels.

**IT IS AGREED** as follows:

1. **Definitions and Interpretation**

1.1 **Definitions**

In this Agreement:

“**Accession Letter**” means a document substantially in the form set out in Schedule 10 (*Form of Accession Letter*).

“**Account**” means each of the Earnings Accounts, the Dry Docking Reserve Account, the Minimum Liquidity Account and any other account opened, made or established in accordance with Clause 24 (*Accounts*).

“**Account Bank**” means, in relation to any Account, ABN AMRO Bank NV, or any other bank or financial institution approved by the Agent (with the prior written consent of the Majority Lenders).

“**Account Holder**” means, in relation to any Account, each Obligor in whose name that Account is held.

“**Accounts Security**” means, in relation to an Account, a deed or other instrument granted by the Account Holder in favour of the Security Agent conferring Security over that Account in the agreed form.

“**Additional Vessel**” means any vessel (other than the Initial Vessel) that meets the Vessel Acquisition Criteria and is purchased by an Additional Vessel Owner which does not own any other Vessel using:

- (a) Excess Cash once the Facility has been drawn in full or there are no Available Commitments to be drawn; and/or
- (b) the proceeds of a Tranche; and/or
- (c) a Fresh Equity Injection and/or Permitted Intercompany Debt provided by the Ultimate Parent to the Parent and then down-streamed pursuant to other Fresh Equity Injection and/or Permitted Intercompany Debt provided from the Parent to the Borrower and then from the Borrower to the relevant Additional Vessel Owner.

“**Additional Vessel Owner**” means any Vessel Owner that accedes to this Agreement pursuant to Clause 28.2 (*Additional Vessel Owners*).

“**Affiliate**” means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

“**Approved Brokers**” means Fearnleys, Maersk Broker, the London offices of any of Braemar ACM, Clarksons or Howe Robinson Partners (or any Affiliate of such persons through which valuations are commonly issued), or any independent international sale and purchase broker mutually agreed by the Agent (acting on the instructions of the Majority Lenders) and the Borrower from time to time (and “**Approved Broker**” means any one of them).

“**Approved Commercial Manager**” means, in relation to a Vessel:

- (a) Global Ship Lease Services Limited;
- (b) any other wholly owned subsidiary of the Ultimate Parent; or
- (c) any other third party management company as the Agent may, with the authorisation of the Majority Lenders acting reasonably, approve in writing from time to time in respect of that Vessel.

“**Approved Flag**” means Hong Kong, Liberia, Panama, Bahamas, Marshall Islands or Cyprus flag or any other flag mutually agreed by the Agent (with the authorisation of all Lenders) and the Borrower, provided that, for the avoidance of doubt, no flag under which a Vessel may be registered may be changed from one Approved Flag to another Approved Flag without the consent of the Agent (with the authorisation of all Lenders), such consent not to be unreasonably withheld or delayed.

“**Approved Manager**” means each Approved Technical Manager and each Approved Commercial Manager.

“**Approved Sub-Manager**” means, in relation to an Approved Manager, any sub-manager appointed by an Approved Manager with the approval of the Agent, with the authorisation of the Majority Lenders, pursuant to Clause 22.19 (*Management Agreement*).

“**Approved Suspense Account**” means an escrow or suspense account with a law firm, notary or a bank acceptable to the Agent into which the balance of the purchase price and any other

amounts owing under the relevant MOA is to be paid under the terms of such MOA on delivery and in respect of which:

- (a) the person who will hold such amounts to the sole order of the Agent (to be released against a release instruction signed by the Agent); and
- (b) the terms of the agreement which provides for such amounts to be paid into, held and dispersed from such account (and, if not dispersed within a specified period, returned to the Agent),

are approved by the Agent (acting on the instructions of all Lenders), such approval not to be unreasonably withheld or delayed.

**“Approved Technical Manager”** means, in relation to a Vessel, Anglo-Eastern, Wallem Group, V.Ships, Wilhelmsen Ship Management, MSC Shipmanagement, COLUMBIA Shipmanagement, Bernard Schulte Shipmanagement, Thomas Schulte Ship Management, E.R. Schiffahrt, as well as any Affiliates thereof or any other management company as the Agent may, with the authorisation of the Majority Lenders, approve in writing from time to time in respect of that Vessel (such approval not to be unreasonably withheld or delayed).

**“Assignment Agreement”** means an agreement substantially in the form set out in Schedule 4 (*Form of Assignment Agreement*) or any other form agreed between the relevant assignor and assignee.

**“Auditor”** means a certified public auditor or audit firm seated in an EEA Member Country, Hong Kong, Canada or the United States of America and licensed by the relevant national authorities.

**“Availability Period”** means the period from and including the date of this Agreement to and including the date falling eight (8) months after the first Utilisation Date (or such later date as the Agent may agree in its sole discretion acting on the instructions of the Majority Lenders), provided that, in the event that the first Utilisation Date has not occurred on or before 12 September 2018, the Agent shall be entitled to elect, by written notice to the Borrower, at any time thereafter (in its sole discretion, acting on the instructions of the Majority Lenders), to terminate the Availability Period (with immediate effect), in which case the last date of the Availability Period shall be the date of such notice.

**“Available Commitment”** means a Lender’s Commitment minus:

- (a) the amount of its participation in the outstanding Loan; and
- (b) in relation to any proposed Utilisation, the amount of its participation in such Utilisation that is due to be made on or before the proposed Utilisation Date.

**“Available Facility”** means the aggregate for the time being of each Lender’s Available Commitment.

**“Bail-In Action”** means the exercise of any Write-down and Conversion Powers.

**“Bail-In Legislation”** means:

- (a) in relation to an EEA Member Country which has implemented, or which at any time implements, Article 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms, the relevant implementing law or regulation as described in the EU Bail-In Legislation Schedule from time to time; and



- (b) in relation to any other state, any analogous law or regulation from time to time which requires contractual recognition of any Write-down and Conversion Powers contained in that law or regulation.

**“Board of Directors”** means:

- (a) with respect to a corporation, the board of directors of the corporation or, other than for purposes of the definition of “Change of Control,” any committee thereof duly authorised to act on behalf of such board; and
- (b) with respect to any other Person, the functional equivalent of a board of directors of a corporation or, other than for purposes of the definition of “Change of Control,” any committee thereof duly authorised to act on behalf thereof.

**“Break Costs”** means the amount (if any) by which:

- (a) the interest (excluding the Margin) which a Lender should have received for the period from the date of receipt of all or any part of its participation in the Loan or Unpaid Sum to the last day of the current Interest Period in respect of that Loan or Unpaid Sum, had the principal amount or Unpaid Sum received been paid on the last day of that Interest Period;

exceeds:

- (b) the amount which that Lender would be able to obtain by placing an amount equal to the principal amount or Unpaid Sum received by it on deposit with a leading bank in the Relevant Interbank Market for a period starting on the Business Day following receipt or recovery and ending on the last day of the current Interest Period.

**“Business Day”** means a day (other than a Saturday or Sunday) on which banks are open for general business in Amsterdam, London and New York.

**“Capital Stock”** means:

- (a) in the case of a corporation, corporate stock;
- (b) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) in the equity of such association or entity;
- (c) in the case of a partnership or limited liability company, partnership interests (whether general or limited) or membership interests; and
- (d) any other interest or participation that confers on a person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing person, but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

**“Cash”** means, at any time with respect to any person, cash in hand or at a bank and (in the latter case) credited to an account in the name of that person and to which that person alone is beneficially entitled and for so long as:

- (a) that cash is repayable within thirty (30) days after the relevant date of calculation;

- (b) repayment of that cash is not contingent on the prior discharge of any other indebtedness of that person or of any other person whatsoever or on the satisfaction of any other condition other than any such conditions under Transaction Security referred to in paragraph (c) below;
- (c) there is no Security over that cash except for Transaction Security; and
- (d) the cash is freely and (except as mentioned in paragraph (a) and (c) above) immediately available to be applied in repayment or prepayment of the Loan.

**“Cash Equivalents”** means:

- (a) United States dollars, pounds sterling or Euro or other currency of a member of the Organization for Economic Cooperation and Development (including such currencies as are held as overnight bank deposits and demand deposits with banks);
- (b) securities issued or directly and fully guaranteed or insured by the government of the United States of America or any Member State of the European Union or any other country whose sovereign debt has a rating of at least “A3” from Moody’s and at least “A-” from S&P or any agency or instrumentality thereof having maturities of not more than one year from the date of acquisition;
- (c) demand and time deposits and eurodollar time deposits and certificates of deposit or bankers’ acceptances with maturities of one year or less from the date of acquisition, in each case, with any financial institution organised under the laws of any country that is a member of the Organization for Economic Cooperation and Development (i) whose long-term debt obligations are rated at least “A-3” or the equivalent thereof by S&P or at least “P-3” or the equivalent thereof by Moody’s (or if at the time neither is issuing comparable ratings, then a comparable rating of another Rating Agency) and (ii) having capital and surplus and undivided profits in excess of US\$250 million;
- (d) repurchase obligations with a term of not more than 60 days for underlying securities of the types described in paragraph (b) of this definition entered into with any financial institution meeting the qualifications specified in paragraph (c) of this definition;
- (e) commercial paper and variable or fixed rate notes rated “P-1” or higher by Moody’s or “A-1” or higher by S&P and, in each case, maturing within one year after the date of acquisition;
- (f) money market funds that invest primarily in Cash Equivalents of the kinds described in paragraphs (a) through (e) of this definition; and
- (g) instruments equivalent to those referred to in paragraphs (a) through (f) of this definition denominated in any other foreign currency and comparable in credit quality and tenor to those referred to above and customarily to the extent reasonably required in connection with (i) any business conducted by the Ultimate Parent or any of its Subsidiaries in such jurisdiction or (ii) any investment in the jurisdiction in which such investment is made.

**“Change of Control”** means:

- (a) in respect of the Ultimate Parent, the occurrence of any of the following events:

- (i) at any time, the Ultimate Parent becomes aware of (by way of a report or any other filing pursuant to Section 13(d) of the Exchange Act, proxy, vote, written notice or otherwise) the acquisition by any “person” or “group” (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act or any successor provision), including any group acting for the purpose of acquiring, holding or disposing of securities (within the meaning of Rule 13d-5(b)(1) under the Exchange Act, or any successor provision), other than the Permitted Holders, in a single transaction or in a related series of transactions, by way of merger, consolidation or other business combination or purchase of beneficial ownership of a majority of the total voting power of the Voting Stock of the Ultimate Parent or any direct or indirect parent company of the Ultimate Parent; *provided* that (x) so long as the Ultimate Parent is a Relevant Subsidiary of a parent company, no person shall be deemed to be or become a beneficial owner of more than 50% of the total voting power of the Voting Stock of the Ultimate Parent unless such person shall be or become a beneficial owner of more than 50% of the total voting power of the Voting Stock of such parent company and (y) any Voting Stock of which any Permitted Holder is the beneficial owner shall not in any case be included in calculating the Voting Stock of which any such person first referred to above in this paragraph (i) is the beneficial owner;
  - (ii) the sale, lease or transfer, in one or a series of related transactions, of all or substantially all of the assets of the Ultimate Parent and its Relevant Subsidiaries, taken as a whole, to any person other than a wholly owned Relevant Subsidiary or one or more Permitted Holders in connection with which any person other than one or more Permitted Holders, is or becomes the beneficial owner (within the meaning of Rule 13d-3 under the Exchange Act, or any successor provision), directly or indirectly, of a majority of the total voting power of the Voting Stock of the transferee person in such sale or transfer of assets, as the case may be; *provided* that (x) so long as such transferee person is a Relevant Subsidiary of a Permitted Parent, no person shall be deemed to be or become a beneficial owner of a majority of the total voting power of the Voting Stock of such transferee person unless such person shall be or become a beneficial owner of a majority of the total voting power of the Voting Stock of such Permitted Parent and (y) any Voting Stock of which any Permitted Holder is the beneficial owner shall not in any case be included in the calculation of any Voting Stock of which any such person first referred to above in this paragraph (ii) is the beneficial owner;
  - (iii) the Ultimate Parent shall adopt a plan of liquidation or dissolution or any such plan shall be approved by the stockholders of the Ultimate Parent; or
  - (iv) de-listing of the Ultimate Parent’s stock from the New York Stock Exchange or another internationally recognised stock exchange (if applicable) that does not occur in connection with a listing of the Ultimate Parent’s shares on another internationally recognised stock exchange, provided that if CMA CGM or its Relevant Affiliates or other parties acting in concert with CMA CGM or its Relevant Affiliates acquires 100% of the shares of the Ultimate Parent and, following such acquisition, the shares of the Ultimate Parent are de-listed as described in this paragraph (iv), such de-listing shall not constitute a Change of Control, so long as the Senior Secured Notes are listed on a reputable stock exchange and remain so listed until they mature or are no longer outstanding;
- (b) in respect of the Parent:

- (i) a sale, lease or transfer of all or substantially all of the Parent's assets to any person or group; or
  - (ii) at any time during which and for any reason, the Ultimate Parent fails to legally and beneficially own, directly, one hundred per cent. (100%) of the capital stock and other equity interests of the Parent;
- (c) in respect of the Borrower:
- (i) a sale, lease or transfer of all or substantially all of the Borrower's assets to any person or group; or
  - (ii) at any time during which and for any reason, the Parent fails to legally and beneficially own, directly, one hundred per cent. (100%) of the capital stock and other equity interests of the Borrower;
- (d) in respect of each Vessel Owner:
- (i) a sale, lease or transfer of all or substantially all of that Vessel Owner's assets to any person or group other than as expressly permitted by the terms of this Agreement; or
  - (ii) at any time during which and for any reason, the Borrower fails to legally and beneficially own, directly, one hundred per cent. (100%) of the capital stock and other equity interests of that Vessel Owner.

**"Charged Property"** means the shares in each of the relevant Obligors and all of the assets of the relevant Obligors which from time to time are, or are expressed or intended to be, the subject of the Security Documents.

**"Charter"** means, in respect of a Vessel, any time charter or other contract of employment between the relevant Vessel Owner owning that Vessel and any charterer, which exceeds or is capable of exceeding thirteen (13) months (including by virtue of optional extensions).

**"Charter Assignment"** means the first priority assignment of any Charter in the agreed form.

**"Classification"** means:

- (a) in the case of the Initial Vessel, the classification with the Classification Society specified in Schedule 8 (*Details of Vessels*) or such other classification with a Classification Society as the Agent may, with the authorisation of the Majority Lenders, approve in writing (such authorisation not to be unreasonably withheld or delayed);
- (b) in the case of an Additional Vessel, such classification with a Classification Society as the Agent may, with the authorisation of the Majority Lenders, approve in writing (such authorisation not to be unreasonably withheld or delayed).

**"Classification Society"** means, in relation to a Vessel, DNV-GL, Bureau Veritas, ABS, Lloyds, NKK, RINA or such other classification society being a member of the International Association of Classification Societies mutually agreed by the Agent (with the authorisation of the Majority Lenders) and the Borrower.

**"CMA CGM"** means CMA CGM S.A.

**"Code"** means the US Internal Revenue Code of 1986 as amended.

“**Commercial Management Agreement**” means, in relation to a Vessel, any commercial management agreement entered into or to be entered into (as applicable) between the Vessel Owner owning that Vessel and an Approved Commercial Manager in form and substance acceptable to the Agent (such acceptance not to be unreasonably withheld or delayed, and acting on the instructions of the Majority Lenders).

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

“**Commitment**” means:

- (a) in relation to an Original Lender, the amount set opposite its name under the heading “Commitment” in Part I of Schedule 1 (*The Original Parties*) and the amount of any other Commitment transferred or assigned to it under this Agreement; and
- (b) in relation to any other Lender, the amount of any Commitment transferred or assigned to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

“**Compliance Certificate**” means a certificate in the form set out in Schedule 6 (*Form of Compliance Certificate*) or otherwise in form and substance satisfactory to the Agent.

“**Confidential Information**” means all information relating to any Group member, the Finance Documents or the Loan of which a Finance Party becomes aware in its capacity as, or for the purpose of becoming, a Finance Party which is received by a Finance Party in relation to, or for the purpose of becoming a Finance Party under, the Finance Documents or the Loan from either:

- (a) any Obligor or any of its advisers; or
- (b) another Finance Party, if the information was obtained by that Finance Party directly or indirectly from any Obligor or any of its advisers, in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes information that:
  - (i) is or becomes public information other than as a direct or indirect result of any breach by that Finance Party of Clause 41 (*Confidentiality*); or
  - (ii) is identified in writing at the time of delivery as non-confidential by any Obligor or any of its advisers; or
  - (iii) is known by that Finance Party before the date the information is disclosed to it in accordance with (a) or (b) or is lawfully obtained by that Finance Party after that date, from a source which is, as far as that Finance Party is aware, unconnected with any Obligor and which, in either case, as far as that Finance Party is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality.

“**Confidentiality Undertaking**” means a confidentiality undertaking substantially in a recommended form of the LMA from time to time or in any other form agreed between the Borrower and the Agent.

“**Corresponding Debt**” means any amount, other than a Parallel Debt, which an Obligor owes to a Finance Party under or in connection with the Finance Documents.

“**Deed of Covenants**” means, in relation to a Vessel registered under Hong Kong, Bahamas, Bermuda or Cyprus flag (or under any other Approved Flag whose laws prescribe a statutory form of vessel mortgage), a first priority deed of covenants collateral to the relevant Mortgage, in the agreed form.

“**Default**” means an Event of Default or any event or circumstance specified in Clause 26 (*Events of Default*) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

“**Defaulting Lender**” means any Lender:

- (a) which has failed to make its participation in a Tranche available (or has notified the Agent that it will not make its participation in a Tranche available) by the Utilisation Date of that Tranche in accordance with Clause 5.4 (*Lenders’ participation*);
- (b) which has otherwise rescinded or repudiated a Finance Document; or
- (c) with respect to which an Insolvency Event has occurred and is continuing,

unless, in the case of paragraph (a) above:

- (i) its failure to pay is caused by:
  - (A) administrative or technical error; or
  - (B) a Disruption Event, andpayment is made within two (2) Business Days of its due date; or
- (ii) the Lender is disputing in good faith whether it is contractually obliged to make the payment in question.

“**Delegate**” means any delegate, agent, attorney or co-trustee appointed by the Security Agent.

“**Disruption Event**” means either or both of:

- (a) a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with the Facility (or otherwise in order for the transactions contemplated by the Finance Documents to be carried out) which disruption is not caused by, and is beyond the control of, any of the Parties; or
- (b) the occurrence of any other event which results in a disruption (of a technical or systems-related nature) to the treasury or payments operations of a Party preventing that, or any other Party:
  - (i) from performing its payment obligations under the Finance Documents; or
  - (ii) from communicating with other Parties in accordance with the terms of the Finance Documents,and which (in either such case) is not caused by, and is beyond the control of, the Party whose operations are disrupted.

“**Dividend / Loan Payment Criteria**” means, at the time of a proposed dividend, distribution or loan payment by the Borrower (in the case of a dividend, distribution or loan payment to the Parent) or the Parent (in the case of a dividend, distribution or loan payment to the Ultimate Parent):

- (a) the dividend, distribution or loan payment is made directly with and solely from the proceeds of a Tranche (in the case of a dividend, distribution or loan payment from the Borrower to the Parent) (a “**Borrower Dividend / Loan Payment**”);
- (b) the on dividend, distribution or loan payment is made solely from the proceeds of a Borrower Dividend / Loan Payment (in the case of a dividend, distribution or loan payment from the Parent to the Ultimate Parent) (a “**Parent Dividend / Loan Payment**”);
- (c) no Borrower Dividend / Loan Payment or Parent Dividend / Loan Payment shall exceed the amount of any Permitted Intercompany Debt or Fresh Equity Injection which was provided by the Ultimate Parent to the Parent solely to fund (in their entirety) all amounts which were paid by or on behalf of the Vessel Owner in connection with a Permitted Acquisition made no more than twenty (20) Business Days prior to a Borrower Dividend / Loan Payment or Parent Dividend / Loan Payment (or, in the case of the acquisition of the Initial Vessel only, no more than sixty (60) Business Days prior to Borrower Dividend / Loan Payment or Parent Dividend / Loan Payment);
- (d) the Borrower Dividend / Loan Payment or Parent Dividend / Loan Payment is made:
  - (i) within five (5) Business Days of drawdown of the relevant Tranche or, if funds are prepositioned in accordance with Clause 5.6 (*Prepositioning of funds*), within seven (7) Business Days of the Preposition Date falling immediately prior to the relevant Permitted Acquisition; and
  - (ii) within twenty (20) Business Days of the relevant acquisition (or, in the case of the Initial Vessel only, within sixty (60) Business Days of the acquisition of the Initial Vessel);
- (e) no Default has occurred and is continuing or would result from the making of such dividend, distribution or loan payment.

“**DOC**” means, in relation to the ISM Company, a valid Document of Compliance issued for the ISM Company by the Administration (as defined in the ISM Code) under paragraph 13.2 of the ISM Code.

“**Dollars**” and “**US\$**” mean the lawful currency, for the time being, of the United States of America.

“**Dormant Company**” means each of Global Ship Lease 27 Limited, Global Ship Lease 28 Limited and Global Ship Lease 29 Limited (together, the “**Dormant Companies**”).

“**Dry Docking Costs**” means, in respect of a Vessel, costs in respect of:

- (a) any intermediate or special survey (including cleaning and anti-fouling the underwater parts) of that Vessel;
- (b) compulsory modifications required for that Vessel as a result of regulatory changes or changes in law; and

- (c) any maintenance items that have been identified in advance of the acquisition of the Vessel and provisioned for in the Monthly Dry Docking Contributions for that Vessel in accordance with this Agreement.

**“Dry Docking Reserve”** means amounts paid into the Dry Docking Reserve Account in accordance with Clause 24.7 (*Dry Docking Reserve*) in relation to a particular Vessel.

**“Dry Docking Reserve Account”** means an account in the name of the Borrower with the Account Bank with account number 0825807298, or any other account opened or established with that office of the Account Bank or another office of the Account Bank which is designated by the Agent as the “Dry Docking Reserve Account”.

**“Earnings”** means, in relation to a Vessel, all moneys whatsoever which are now, or later become, payable (actually or contingently) to the Vessel Owner owning that Vessel or the Security Agent and which arise out of the use or operation of the Vessel including (but not limited to):

- (a) all freight, hire and passage moneys, money or compensation payable for the provision of services by or from a Vessel or under any charter commitment, compensation payable to that Vessel Owner or the Security Agent in the event of requisition of a Vessel for hire, general average consolidation, remuneration for salvage and towage services, demurrage and detention moneys and damages for breach (or payments for variation or termination) of any charterparty or other contract for the employment of a Vessel;
- (b) all moneys which are at any time payable under Insurances in respect of loss of earnings; and
- (c) if and whenever a Vessel is employed on terms whereby any moneys falling within paragraphs (a) or (b) is pooled or shared with any other person, that proportion of the net receipts of the relevant pooling or sharing arrangement which is attributable to a Vessel.

**“Earnings Accounts”** means, in relation to each Vessel Owner, an account in the name of that Vessel Owner with the Account Bank, or any other account opened or established with that office of the Account Bank or another office of the Account Bank which is designated by the Agent as an **“Earnings Account”** for the purposes of this Agreement and **“Earnings Account”** means any of them.

**“EEA Member Country”** means any member state of the European Union, the United Kingdom, Iceland, Liechtenstein and Norway.

**“Eligible Institution”** means any Lender or other bank, financial institution, trust, fund or other entity selected by the Borrower and which, in each case, is not a member of the Group.

**“Environment”** means humans, animals, plants and all other living organisms including the ecological systems of which they form part and the following media:

- (a) air (including, without limitation, air within natural or man-made structures, whether above or below ground);
- (b) water (including, without limitation, territorial, coastal and inland waters, water under or within land and water in drains and sewers); and
- (c) land (including, without limitation, land under water).



“**Environmental Approval**” means any present or future permit, ruling, variance or other authorisation required under Environmental Law.

“**Environmental Claim**” means any claim, proceeding, formal notice or investigation by any governmental, judicial or regulatory authority or any other person which arises out of an Environmental Incident or an alleged Environmental Incident or which relates to any Environmental Law and, for this purpose, “claim” includes a claim for damages, compensation, contribution, injury, fines, losses and penalties or any other payment of any kind, including in relation to clean-up and removal, whether or not similar to the foregoing; an order or direction to take, or not to take, certain action or to desist from or suspend certain action; and any form of enforcement or regulatory action, including the arrest or attachment of any asset.

“**Environmental Incident**” means:

- (a) any release, emission, spill or discharge into a Vessel or into or upon the air, sea, land or soils (including the seabed) or surface water of Environmentally Sensitive Material within or from a Vessel; or
- (b) any incident in which Environmentally Sensitive Material is released, emitted, spilled or discharged into or upon the air, sea, land or soils (including the seabed) or surface water from a vessel other than a Vessel and which involves a collision between a Vessel and such other vessel or some other incident of navigation or operation, in either case, in connection with which a Vessel is actually or potentially liable to be arrested, attached, detained or enjoined and/or a Vessel and/or any Obligor and/or any operator or manager of a Vessel is at fault or allegedly at fault or otherwise liable to any legal or administrative action; or
- (c) any other incident in which Environmentally Sensitive Material is released, emitted, spilled or discharged into or upon the air, sea, land or soils (including the seabed) or surface water otherwise than from a Vessel and in connection with which a Vessel is actually or potentially liable to be arrested and/or where any Obligor and/or any operator or manager of a Vessel is at fault or allegedly at fault or otherwise liable to any legal or administrative action, other than in accordance with an Environmental Approval.

“**Environmental Law**” means any applicable or relevant present or future law or regulation relating to pollution or protection of human health or the Environment, to conditions in the workplace, to the carriage, generation, handling, storage, use, release or spillage of Environmentally Sensitive Material or to actual or threatened releases of Environmentally Sensitive Material.

“**Environmentally Sensitive Material**” means and includes all contaminants, oil, oil products, toxic substances and any other substance (including any chemical, gas or other hazardous or noxious substance) which is (or is capable of being or becoming) polluting, toxic or hazardous.

“**EU Bail-In Legislation Schedule**” means the document described as such and published by the Loan Market Association (or any successor person) from time to time.

“**Event of Default**” means any event or circumstance specified as such in Clause 26 (*Events of Default*) or any other event or circumstance described as such in any other provision of a Finance Document.

“**Excess Cash**” means, at any time, the aggregate amount standing to the credit of the Accounts after deduction of the following amounts:

- (a) the Minimum Liquidity Amount;
- (b) the Dry Docking Reserve in respect of all Vessels; and
- (c) US\$300,000 multiplied by each Vessel,

in each case calculated assuming that any vessel contracted to be acquired by a Vessel Owner was already a Vessel.

“**Exchange Act**” means the U.S. Securities Exchange Act of 1934, as amended, or any successor statute or statutes thereto and, in each case, the rules and regulations promulgated by the Commission thereunder.

“**Facility**” means the term loan facility made available under this Agreement as described in Clause 2.1 (*The Facility*).

“**Facility Office**” means:

- (a) in respect of a Lender, the office or offices notified by a Lender to the Agent in writing on or before the date it becomes a Lender (or, following that date, by not less than five (5) Business Days’ written notice) as the office or offices through which it will perform its obligations under this Agreement; and
- (b) in respect of any other Finance Party, the office in the jurisdiction in which it is resident for tax purposes.

“**Facility Period**” means the period from and including the date of this Agreement to and including the date on which the Total Commitments have been reduced to zero and all Secured Liabilities have been fully paid and discharged.

“**FATCA**” means:

- (a) sections 1471 to 1474 of the Code or any associated regulations or other official guidance;
- (b) any treaty, law, regulation or other official guidance enacted in any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or any regulation referred to in paragraph (a) above; or
- (c) any agreement pursuant to the implementation of any treaty, law, regulation or other official guidance referred to in paragraphs (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction.

“**FATCA Application Date**” means:

- (a) in relation to a “withholdable payment” described in section 1473(1)(A)(i) of the Code (which relates to payments of interest and certain other payments from sources within the US), 1 July 2014;
- (b) in relation to a “withholdable payment” described in section 1473(1)(A)(ii) of the Code (which relates to “gross proceeds” from the disposition of property of a type that can produce interest from sources within the US), 1 January 2019; or

- (c) in relation to a “passthru payment” described in section 1471(d)(7) of the Code not falling within paragraphs (a) or (b) above, 1 January 2019,

or, in each case, such other date from which such payment may become subject to a deduction or withholding required by FATCA as a result of any change in FATCA after the date of this Agreement.

“**FATCA Deduction**” means a deduction or withholding from a payment under a Finance Document required by FATCA.

“**FATCA Exempt Party**” means a Party that is entitled to receive payments free from any FATCA Deduction.

“**Fee Letter**” means any letter or letters dated on or about the date of this Agreement between (i) the Agent or the Security Agent and (ii) the Borrower setting out any of the fees referred to in Clause 11 (*Fees*).

“**Finance Document**” means:

- (a) this Agreement;
- (b) any Security Document;
- (c) any Fee Letter;
- (d) any Accession Letter; or
- (e) any other document designated as a Finance Document by the Agent and any Obligor party to it.

“**Finance Party**” means the Agent, the Security Agent or a Lender (together the “**Finance Parties**”).

“**Financial Indebtedness**” means any indebtedness for or in respect of:

- (a) moneys borrowed;
- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) any redeemable preference share issues which mature prior to the date which is 6 months after the Termination Date (excluding, for this purpose, any preference shares issued by the Ultimate Parent which have a maturity date prior to such date and which covert into ordinary shares at maturity) or are otherwise classified as borrowings under GAAP;
- (e) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with GAAP, be treated as a finance or capital lease;
- (f) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);

- (g) any amount raised under any other transaction (including any forward sale or purchase agreement) of a type not referred to in any other paragraph of this definition having the commercial effect of a borrowing;
- (h) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that derivative transaction, that amount) shall be taken into account);
- (i) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and
- (j) the amount of any liability in respect of any guarantee, indemnity or similar assurance against financial loss in respect of any of the items referred to in paragraphs (a) to (i) above.

**“Financial Quarter”** means each period of three (3) months ending on a Quarter Date.

**“Fresh Equity Injection”** means, at any time after the date of this Agreement:

- (a) any Cash actually received by the Borrower from the Parent in consideration for the Borrower’s ordinary issued share capital, which was in turn received in full by the Parent from the Ultimate Parent in consideration for the Parent’s ordinary issued share capital; or
- (b) any Cash actually received by the Borrower from the Parent by way of Permitted Intercompany Debt, which was in turn received in full from the Ultimate Parent in consideration for the Parent’s ordinary issued share capital.

**“G&A Expenses”** means the aggregate fees, costs and expenses reasonably and properly incurred by the Parent, the Borrower and any Vessel Owner in connection with the general corporate management and administrative services of the Parent, the Borrower and any Vessel Owner.

**“GAAP”** means generally accepted accounting principles in the United States of America.

**“General Assignment”** means, in relation to a Vessel Owner, any assignment of the Earnings, Insurances and Requisition Compensation in respect of the Vessel owned by that Vessel Owner, entered into by that Vessel Owner in favour of the Security Agent in the agreed form.

**“Group”** means the Ultimate Parent, the Parent, the Borrower and each Vessel Owner and their respective Subsidiaries for the time being.

**“Group A Vessel”** means any feeder container vessel (1,000 TEU – 3,600 TEU) built in 2005 or later.

**“Group B Vessel”** means any feeder container vessel (1,000 TEU – 3,600 TEU) built between 2000 and 2004 (inclusive).

**“Group C Vessel”** means any feeder container vessel (1,000 TEU – 3,600 TEU) built before 2000.

**“GSLs”** means Global Ship Lease Services Limited.

“**Guarantees**” means the guarantees and indemnities in Clause 17 (*Guarantee and indemnity*) (and “**Guarantee**” means any of them).

“**Guarantors**” means, together, the Ultimate Parent, the Parent and each Vessel Owner.

“**Holding Company**” means, in relation to a person, any other person in respect of which it is a Subsidiary.

“**Hong Kong**” means the Hong Kong Special Administrative Region of the People’s Republic of China.

“**IAPPC**” means a valid and current International Air Pollution Prevention Certificate.

“**Impaired Agent**” means the Agent at any time when:

- (a) it has failed to make (or has notified a Party that it will not make) a payment required to be made by it under the Finance Documents by the due date for payment;
- (b) the Agent otherwise rescinds or repudiates a Finance Document;
- (c) (if the Agent is also a Lender) it is a Defaulting Lender under paragraph (a) or (b) of the definition of “Defaulting Lender”; or
- (d) an Insolvency Event has occurred and is continuing with respect to the Agent;

unless, in the case of paragraph (a) above:

- (i) its failure to pay is caused by:
  - (A) administrative or technical error; or
  - (B) a Disruption Event; andpayment is made within two (2) Business Days of its due date; or
- (ii) the Agent is disputing in good faith whether it is contractually obliged to make the payment in question.

“**Initial Dry Docking Equity Contribution**” has the meaning given in Clause 24.7(d) (*Dry Docking Reserve*).

“**Initial Vessel**” means the vessel described in Schedule 8 (*Details of Initial Vessel*).

“**Insolvency Event**” in relation to an entity means that the entity:

- (a) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
- (b) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;
- (c) makes a general assignment, arrangement or composition with or for the benefit of its creditors;
- (d) institutes or has instituted against it, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organisation or the jurisdiction of its head or home

office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation by it or such regulator, supervisor or similar official;

- (e) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition is instituted or presented by a person or entity not described in (d) and:
  - (i) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation; or
  - (ii) is not dismissed, discharged, stayed or restrained in each case within thirty (30) days of the institution or presentation thereof;
- (f) has exercised in respect of it one or more of the stabilisation powers pursuant to Part 1 of the Banking Act 2009 and/or has instituted against it a bank insolvency proceeding pursuant to Part 2 of the Banking Act 2009 or a bank administration proceeding pursuant to Part 3 of the Banking Act 2009;
- (g) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);
- (h) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets (other than, for so long as it is required by law or regulation not to be publicly disclosed, any such appointment which is to be made, or is made, by a person or entity described in (d));
- (i) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within thirty (30) days thereafter;
- (j) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in (a) to (i); or
- (k) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

**"Insurances"** means, in relation to a Vessel:

- (a) any policy and contract of insurance including entries of that Vessel in any protection and indemnity or war risk association, effected in relation to that Vessel and that Vessel's Earnings whether before or after the date of this Agreement; and
- (b) all rights and other assets relating to, or derived from, any such policies and contracts of insurance (including any rights to a return for a premium).

“**Interest Period**” means, in relation to a Tranche, each period determined in accordance with Clause 9 (*Interest Periods*) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 8.3 (*Default interest*).

“**Interpolated Screen Rate**” means, in relation to the Loan, the rate (rounded to the same number of decimal places as the two relevant Screen Rates) which results from interpolating on a linear basis between:

- (a) the applicable Screen Rate for the longest period (for which that Screen Rate is available) which is less than the Interest Period of the Loan; and
- (b) the applicable Screen Rate for the shortest period (for which that Screen Rate is available) which exceeds the Interest Period of the Loan,

each as of the Specified Time for the currency of the Loan.

“**Intra-Company Loan Agreement**” means the agreement dated on or about the date of this Agreement between the Ultimate Parent, the Parent, the Borrower and the Original Vessel Owner, as acceded to from time to time by each Additional Vessel Owner, exclusively for the purpose of making Permitted Intercompany Debt available in accordance with the terms of the Finance Documents.

“**ISM Code**” means the International Safety Management Code for the Safe Operation of Ships and for Pollution Prevention (including the guidelines on its implementation), adopted by the International Maritime Organisation, as the same may be amended or supplemented from time to time (and the terms “safety management system”, “Safety Management Certificate” and “Document of Compliance” have the same meanings as are given to them in the ISM Code).

“**ISM Company**” means, at any given time, the company responsible for a Vessel’s compliance with the ISM Code.

“**ISPS Code**” means the International Ship and Port Facility Security Code adopted by the International Maritime Organisation (as the same may be amended, supplemented or superseded from time to time).

“**ISSC**” means a valid and current International Ship Security Certificate issued under the ISPS Code.

“**Joint Venture**” means any joint venture entity, whether a company, unincorporated firm, undertaking, association, joint venture or partnership or any other entity.

“**Legal Reservations**” means:

- (a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors;
- (b) the time barring of claims under the Limitation Acts, the possibility that an undertaking to assume liability for or to indemnify a person against non-payment of UK stamp duty may be void and defences of set-off or counterclaim;
- (c) the limitation of the enforcement of the terms of leases of real property by laws of general application to those leases;

- (d) similar principles, rights and remedies under the laws of any Relevant Jurisdiction; and
- (e) any other matters which are set out as qualifications or reservations as to matters of law of general application in any legal opinions supplied to the Agent as a condition precedent under this Agreement on or before a Utilisation Date or, as the case may be, when an Additional Vessel Owner accedes to this Agreement pursuant to Clause 28.2 (*Additional Vessel Owners*).

“**Lender**” means:

- (a) any Original Lender; and
- (b) any bank, financial institution, trust, fund or other entity which has become a Party in accordance with Clause 27 (*Changes to the Lenders*),

which in each case has not ceased to be a Party in accordance with the terms of this Agreement.

“**LIBOR**” means, in relation to the Loan or any part of it:

- (a) the applicable Screen Rate; or
- (b) (if no Screen Rate is available for the Interest Period of the Loan or any part of it) the Interpolated Screen Rate for the Loan;
- (c) if:
  - (i) no Screen Rate is available for Dollars; or
  - (ii) no Screen Rate is available for the Interest Period of the Loan or any part of it and it is not possible to calculate the Interpolated Screen Rate for the Loan or part of it,

the Reference Bank Rate,

as of in the case of paragraphs (a) and (c) above the Specified Time on the Quotation Day for Dollars and for a period equal in length to the Interest Period of the Loan, or part of it and, if any such rate is below 0.5% per annum, LIBOR shall be deemed to be 0.5% per annum.

“**Limitation Acts**” means the Limitation Act 1980 and the Foreign Limitation Periods Act 1984.

“**Loan**” means the loan made or to be made under the Facility or, as the context requires, the principal amount outstanding for the time being of the loan (which shall for the avoidance of doubt shall be equal to the aggregate principal amount outstanding for the time being of all Tranches).

“**Loan to Own Investor**” means any entity whose principal investment strategy is the purchase of loans to, or debt securities issued by, an entity (the “**Target**”) at a material discount to the face value of such loans or debt securities and with a view of either (i) owning the equity in, or gaining control of the business of, the Target or (ii) pursuing active enforcement policies with respect to such loans or debt securities.

“**LTV Ratio**” means, at any time, the Loan as a percentage of the aggregate Market Value of all Vessels.



“**Major Casualty**” means, in relation to a Vessel, any casualty to that Vessel in respect of which the claim or the aggregate of the claims against all insurers, inclusive of any franchise or deductible, exceeds or may exceed the Major Casualty Amount.

“**Major Casualty Amount**” means, in relation to a Vessel, US\$750,000 or the equivalent in any other currency.

“**Majority Lenders**” means a Lender or Lenders whose Commitments aggregate at least  $66\frac{2}{3}\%$  of the Total Commitments or, if the Total Commitments have been reduced to zero, aggregated at least  $66\frac{2}{3}\%$  of the Total Commitments immediately prior to the reduction.

“**Make Whole Amount**” means an amount equal to the greater of:

- (a) 3% of the principal amount to be prepaid; and
- (b) the excess of:
  - (i) the present value on the date of prepayment of the aggregate of: (x) 103% of the principal amount to be prepaid as if that amount would otherwise be prepaid on the date which is immediately after the date falling on the twenty four month anniversary of the first Utilisation Date; and (y) the amount equal to the amount of all interest which would otherwise have accrued for the period from the date of such prepayment (assuming for these purposes that LIBOR is the greater of (I) the LIBOR rate for a period of six months on the date which is two (2) Business Days prior to the date of prepayment and (II) 0.5%) to the date which is immediately after the date falling on the twenty four month anniversary of the first Utilisation Date, computed using a discount rate equal to the US Treasury Rate plus 50 basis points; over
  - (ii) the principal amount to be prepaid.

“**Management Agreements**” means any Technical Management Agreement and any Commercial Management Agreement.

“**Manager’s Undertaking**” means, in relation to a Vessel, the letter(s) of undertaking from each Approved Manager in favour of the Security Agent, in the agreed form.

“**Margin**” means five point five per cent. (5.5%) per annum.

“**Market Value**” means, in relation to a Vessel, the value of that Vessel as determined in accordance with Clause 25.3 (*Valuation of Vessels*).

“**Material Adverse Effect**” means, in the reasonable opinion of the Majority Lenders, a material adverse effect on:

- (a) the business, operations, property, financial condition or financial prospects of the Group taken as a whole; or
- (b) the ability of an Obligor to perform its payment obligations under the Finance Documents; or
- (c) the validity or enforceability of, or the effectiveness or ranking of any Security granted or purported to be granted pursuant to any of, the Finance Documents; or
- (d) the rights or remedies of any Finance Party under any of the Finance Documents.

“**Maximum Loan Amount**” means an amount of US\$65,000,000.

“**Maximum Tranche Amount**” means, in relation to a Tranche, an amount of up to the lower of:

- (a) in respect of the Initial Vessel, an amount sufficient to ensure that the amount of that Tranche does not exceed sixty-five per cent. (65%) of the Market Value of the Initial Vessel;
- (b) in respect of a Group A Vessel an amount no more than the lesser of:
  - (i) sixty-five per cent. (65%) of the Market Value of the Group A Vessel to which that Tranche relates;
  - (ii) sixty-five per cent. (65%) of the actual purchase price of the Group A Vessel to which that Tranche relates; and
  - (iii) an amount sufficient to ensure that the LTV Ratio (including, for this purpose, the amount of the Tranche to be drawdown and the Market Value of the Vessel to be acquired) is no greater than it was immediately prior to the drawdown of that Tranche;
- (c) in respect of a Group B Vessel an amount no more than the lesser of:
  - (i) sixty-five per cent. (65%) of the Market Value of the Group B Vessel to which that Tranche relates;
  - (ii) sixty-five per cent. (65%) of the actual purchase price of the Group B Vessel to which that Tranche relates;
  - (iii) an amount sufficient to ensure that the LTV Ratio (including, for this purpose, the amount of the Tranche to be drawdown and the Market Value of the Vessel to be acquired) is no greater than it was immediately prior to the drawdown of that Tranche; and
  - (iv) the scrap value of the Group B Vessel to which that Tranche relates calculated at US\$400 / LWT;
- (d) in respect of a Group C Vessel an amount no more than the lesser of:
  - (i) sixty-five per cent. (65%) of the Market Value of the Group C Vessel to which that Tranche relates;
  - (ii) sixty-five per cent. (65%) of the actual purchase price of the Group C Vessel to which that Tranche relates;
  - (iii) an amount sufficient to ensure that the LTV Ratio (including, for this purpose, the amount of the Tranche to be drawdown and the Market Value of the Vessel to be acquired) is no greater than it was immediately prior to the drawdown of that Tranche; and
  - (iv) the scrap value of the Group C Vessel to which that Tranche relates calculated at US\$300 / LWT; and
- (e) an amount, when taken together with the aggregate amount of the Utilisations in respect of the other Tranches, does not exceed the Maximum Loan Amount.

“**Minimum Liquidity Account**” means an account in the name of the Borrower with the Account Bank with account number 0825807301, or any other account opened or established with that office of the Account Bank or another office of the Account Bank which is designated by the Agent as the “Minimum Liquidity Account” for the purposes of this Agreement.

“**Minimum Liquidity Amount**” has the meaning given in Clause 24.5 (*Minimum Liquidity Account*).

“**MOA**” means, in relation to any Vessel, the memorandum of agreement between the relevant Seller and the relevant Vessel Owner relating to the sale and purchase of such Vessel.

“**Monthly Contribution**” has the meaning given in Clause 24.7(b)(i) (*Dry Docking Reserve*).

“**Mortgage**” means, in relation to a Vessel, the first priority or first preferred ship mortgage (as the case may be) granted or to be granted (as the context so requires) over that Vessel by the relevant Vessel Owner in favour of the Security Agent in the agreed form.

“**Mortgaged Vessel**” means, at any relevant time, any Vessel which is or purports to be subject to a Mortgage and/or whose Earnings, Insurances and Requisition Compensation are or purport to be subject to Security under the Finance Documents.

“**New Lender**” has the meaning given to that term in Clause 27 (*Changes to the Lenders*).

“**Obligors**” means the parties to the Finance Documents, other than the Finance Parties, the Account Bank and (to the extent it is not a Related Party) any Approved Manager and “**Obligor**” means any one of them and, for the avoidance of doubt, neither CMA Ships nor CMA CGM shall be considered an Obligor.

“**OFAC**” means the Office of Foreign Assets Control of the US Department of the Treasury.

“**Operating Expenses**” means, in relation to a Vessel, expenses properly and reasonably incurred by or on behalf of the Vessel Owner owning that Vessel in connection with the ownership, operation, commercial and technical management, employment, maintenance, repair and insurance of that Vessel, excluding Dry Docking Costs and G&A Expenses but including insurance premiums and reimbursements.

“**Original Financial Statements**” means, in respect of the Ultimate Parent:

- (a) its unaudited financial statements for the Financial Quarter ended 31 March 2018; and
- (b) its audited financial statements for the financial year ended 31 December 2017.

“**Original Jurisdiction**” means, in relation to an Obligor, the jurisdiction under whose laws that Obligor is incorporated as at the date of this Agreement or, as the case may be, when they have acceded to this Agreement.

“**Parallel Debt**” has the meaning given in Clause 29.28(a) (*Parallel Debt*).

“**Participating Member State**” means any member state of the European Union that adopts or has adopted the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

“**Party**” means a party to this Agreement (together the “**Parties**”).

“**Permitted Acquisition**” means the acquisition of any Additional Vessel in accordance with the Vessel Acquisition Criteria.

“**Permitted Dividend**” means a dividend made by the Borrower to the Parent or by the Parent to the Ultimate Parent, in conformity with the Dividend / Loan Payment Criteria at the date of the declaration of such dividend, as certified to the Agent in writing by the Borrower or the Parent (as the case may be).

“**Permitted Holders**” means each of:

- (a) CMA CGM or any Subsidiary of CMA CGM for so long as it remains a Subsidiary of CMA CGM; and
- (b) (i) Michael S. Gross and (ii) each of his spouse, siblings, ancestors, descendants (whether by blood, marriage or adoption, and including stepchildren) and the spouses, siblings, ancestors and descendants thereof (whether by blood, marriage or adoption, and including stepchildren) of such natural persons, the beneficiaries, estates and legal representatives of any of the foregoing, the trustee of any *bona fide* trust of which any of the foregoing, individually or in the aggregate, are the majority in interest beneficiaries or grantors, and any corporation, partnership, limited liability Ultimate Parent or other person in which any of the foregoing, individually or in the aggregate, own or control a majority in interest; and (iii) all Affiliates controlled by the persons named in items (i) and (ii) above;

“**Permitted Intercompany Debt**” means:

- (a) any downstream loan from:
  - (i) the Ultimate Parent to the Parent;
  - (ii) the Parent to the Borrower (solely using the proceeds received from the Ultimate Parent);
  - (iii) the Borrower to a Vessel Owner (solely using the proceeds received from the Parent or from an upstream loan referred to in (b) below, or a combination thereof); and
  - (iv) (on or prior to the first Utilisation Date) the Ultimate Parent to the Borrower (which was used solely by the Borrower to advance a loan to the Original Vessel Owner to enable it to purchase the Initial Vessel); and
- (b) any upstream loan from a Vessel Owner to the Borrower (solely using Excess Cash and for the purposes of funding the acquisition of an Additional Vessel),

provided that, in each case, such loan is (i) made under and on the terms contained in the Intra-Company Loan Agreement and (ii) subordinated and subject to the Transaction Security under and in accordance with the terms of the Subordination and Assignment Agreement.

“**Permitted Maritime Lien**” means, in relation to a Vessel:

- (a) unless a Default is continuing, any ship repairer’s or outfitter’s possessory lien in respect of that Vessel for an amount not exceeding the Major Casualty Amount or the equivalent in any other currency;
- (b) any lien on that Vessel for master’s, officer’s or crew’s wages outstanding in the ordinary course of its trading and in accordance with usual maritime practice;

- (c) liens for salvage;
- (d) liens for master's disbursements incurred in the ordinary course of trading; or
- (e) any other lien arising by operation of law or otherwise in the ordinary course of the operation, repair, maintenance, insurance, dry-docking or chartering of that Vessel or due to the carrying out of any modifications on that Vessel, but not as a result of any default or omission by an Obligor and subject, in the case of liens for repair or maintenance, to paragraph (g) of Clause 22.14 (*Restrictions on chartering etc.*); provided that (i) in each case, no such lien is not more than 30 days outstanding and (ii) such liens are not, in aggregate, for an amount greater than the Major Casualty Amount,

provided that, in the case of a lien arising in connection with the scheduled dry-docking of a Vessel where there is sufficient cash standing to the credit of the Dry Docking Reserve Account explicitly relating to that particular Vessel to cover the Dry Docking Costs to which such lien relates, any such lien arising in respect of such scheduled dry-docking shall constitute a Permitted Maritime Lien for the purposes of paragraphs (a) and (e) above.

**"Permitted Parent"** means any direct or indirect parent of the Ultimate Parent formed not in connection with, or in contemplation of, a transaction that, assuming such parent was not formed, after giving effect thereto would constitute a Change of Control in respect of the Ultimate Parent.

**"Permitted Security"** means any Security which is:

- (a) granted by the Finance Documents;
- (b) a Permitted Maritime Lien;
- (c) approved in writing by the Agent (on behalf of all Lenders); or
- (d) any pledge or set-off right created pursuant to the general banking conditions of the Account Bank.

**"Permitted Transaction"** means:

- (a) any disposal required, Financial Indebtedness incurred, guarantee, indemnity or Security or Quasi-Security given, or other transaction arising, under the Finance Documents;
- (b) transactions (other than (i) any sale, lease, license, transfer or other disposal and (ii) the granting or creation of any Security or the incurring or permitting to subsist of Financial Indebtedness) conducted in the ordinary course of trading on arm's length terms; or
- (c) any charter of a Vessel expressly permitted under the terms of the Finance Documents.

**"Permitted Vessel Disposal"** means a sale of a Vessel by a Vessel Owner provided always that:

- (a) no Event of Default has occurred and is continuing or would occur as a result of the sale;

- (b) the sale is on arm's length terms for cash proceeds payable in full on completion and for no less than its Market Value as at the date of contracting for sale;
- (c) the sale must be to a third party who is not a Related Party;
- (d) (prior to the relevant Vessel Owner entering into a legally binding commitment in relation to such sale) the Agent has received evidence in form and substance satisfactory to it demonstrating that the net sale proceeds from the sale of that Vessel are sufficient to ensure that the prepayment requirements set out in Clause 7.3 (*Mandatory prepayment*) and Clause 7.8 (*Restrictions*) will be satisfied (including but not limited to the requirement to pay all accrued interest, fees, any prepayment fees and other amounts due and payable under the Finance Documents), provided that, if the net sale proceeds are not sufficient to ensure that the prepayment requirements set out in Clause 7.3 (*Mandatory prepayment*) and Clause 7.8 (*Restrictions*) will be satisfied, the Ultimate Parent shall be permitted to provide additional funds in order satisfy any such shortfall on the condition that such additional funds shall be (i) provided by the Ultimate Parent and down-streamed to an account of the Borrower by way of a Permitted Intercompany Loan and/or a Fresh Equity Injection and such account is blocked and pledged in favour of the Security Agent on or before the date that any legal commitment (whether by way of any memorandum of agreement or otherwise) is provided for the sale and purchase of the Vessel, and (ii) released to the Security Agent upon the sale of the Vessel for application towards the Borrower's prepayment obligations under Clause 7.3 (*Mandatory Prepayment*);
- (e) upon completion of the sale of that Vessel the net sale proceeds are immediately applied in prepayment in accordance with Clause 7.3 (*Mandatory prepayment*) and Clause 7.8 (*Restrictions*) and in payment of such other amounts due and payable under the Finance Documents; and
- (f) upon completion of the sale of that Vessel, the VTL Coverage set out in Clause 25.1(a) (*Additional security*) shall be maintained for any remaining Vessels.

**"Prepayment Fee"** means, in respect of any amount of principal prepaid under Clause 6.3 (*Prepayment and Cancellation*):

- (a) the Make Whole Amount if the prepayment occurs on or before the date falling 24 months after the relevant Utilisation Date of the amount prepaid;
- (b) 103% of the amount prepaid if the prepayment occurs following the date falling 24 months after the relevant Utilisation Date of the amount prepaid but on or before the date falling 36 months after the relevant Utilisation Date of the amount prepaid;
- (c) 102% of the amount prepaid if the prepayment occurs following the date falling 36 months after the relevant Utilisation Date of the amount prepaid but on or before the earliest to occur of (i) the date falling 40 months after the relevant Utilisation Date of the amount prepaid and (ii) the date falling 8 months before the Termination Date; and
- (d) nil if the prepayment occurs following the earliest to occur of (i) the date falling 40 months after the relevant Utilisation Date of the amount prepaid and (ii) the date falling 8 months before the Termination Date.

**"Quarter Date"** means 31<sup>st</sup> March, 30<sup>th</sup> June, 30<sup>th</sup> September and 31<sup>st</sup> December of each calendar year.

**"Quasi-Security"** has the meaning given to that term in Clause 21.8 (*Negative pledge*).

**“Quotation Day”** means, in relation to any period for which an interest rate is to be determined, two (2) Business Days before the first day of that period unless market practice differs in the Relevant Interbank Market in which case the Quotation Day will be determined by the Agent in accordance with market practice in the Relevant Interbank Market (and if quotations would normally be given by leading banks in the Relevant Interbank Market on more than one day, the Quotation Day will be the last of those days).

**“Receiver”** means a receiver or receiver and manager or administrative receiver of the whole or any part of the Security Property.

**“Reference Bank Rate”** means the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Agent at its request by the Reference Banks as the rate at which the relevant Reference Bank could borrow funds in the Relevant Interbank Market in Dollars for the relevant period, were it to do so by asking for and then accepting interbank offers for deposits in reasonable market size in that currency and for that period.

**“Reference Banks”** means the principal London offices of Barclays Bank PLC, Lloyds Bank plc and HSBC Bank plc, or such other banks as may be appointed by the Agent in consultation with the Borrower.

**“Related Fund”** in relation to a fund (the **“first fund”**), means a fund which is managed or advised by the same investment manager or investment adviser as the first fund or, if it is managed by a different investment manager or investment adviser, a fund whose investment manager or investment adviser is an Affiliate of the investment manager or investment adviser of the first fund.

**“Related Party”** means any member of the Group or any of their respective Affiliates (or any officer, employee or director of any member of the Group or any of their respective Affiliates) or any person which directly or indirectly owns more than 5% of the shares of the Ultimate Parent either alone and/or with other persons with whom it is acting in concert.

**“Relevant Affiliate”** of any specified person means any other person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified person. For purposes of this definition, *“control,”* 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 or policies of such person, whether through the ownership of voting securities, by agreement or otherwise. For purposes of this definition, the terms *“controlling,” “controlled by”* and *“under common control with”* have correlative meanings.

**“Relevant Document”** means:

- (a) any Finance Document;
- (b) any Management Agreement;
- (c) each Charter;
- (d) the Intra-Company Loan Agreement; and
- (e) any other document designated as such by the Agent and any Obligor.

**“Relevant Interbank Market”** means the London interbank market.

**“Relevant Jurisdiction”** means, in relation to an Obligor:

- (a) its Original Jurisdiction;

- (b) any jurisdiction where any Charged Property owned by it is situated;
- (c) any jurisdiction where it conducts its business; and
- (d) any jurisdiction whose laws govern the perfection of any of the Security Documents entered into by it.

“**Relevant Nominating Body**” means any applicable central bank, regulator or other supervisory authority or a group of them, or any working group or committee sponsored or chaired by, or constituted at the request of, any of them or the Financial Stability Board.

“**Relevant Subsidiary**” means, with respect to any specified person:

- (a) any corporation, association or other business entity of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees of the corporation, association or other business entity is at the time owned or controlled, directly or indirectly, by that person or one or more Subsidiaries of such person (or a combination thereof); and
- (b) any other person of which at least a majority of the voting interest (without regard to the occurrence of any contingency) is at the time directly or indirectly owned by such person or one or more Subsidiaries of such person (or a combination thereof).

“**Repeating Representations**” means each of the representations set out in Clause 18 (*Representations and warranties*), other than Clauses 18.8 (*Insolvency*), 18.9 (*No filing or stamp taxes*), 18.13 (*No proceedings pending or threatened*), 18.14 (*Taxes and VAT*) and 18.31 (*Vessel*) and any representation in any other Finance Document which is expressed to be a “Repeating Representation” or is otherwise expressed to be repeated.

“**Replacement Benchmark**” means a benchmark rate which is:

- (a) formally designated, nominated or recommended as the replacement for a Screen Rate by:
  - (i) the administrator of that Screen Rate (provided that the market or economic reality that such benchmark rate measures is the same as that measured by that Screen Rate); or
  - (ii) any Relevant Nominating Body,and if replacements have, at the relevant time, been formally designated, nominated or recommended under both paragraphs, the “Replacement Benchmark” will be the replacement under paragraph (ii) above;
- (b) in the opinion of the Majority Lenders and the Borrower, generally accepted in the international or any relevant domestic syndicated loan markets as the appropriate successor to that Screen Rate; or
- (c) in the opinion of the Majority Lenders and the Borrower, an appropriate successor to a Screen Rate.

“**Representative**” means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian.

“**Requisition Compensation**” means, in relation to a Vessel:



- (a) any and all compensation or other monies payable by reason of any act or event such as is referred to in paragraph (b) or (c) of the definition of “Total Loss” relating to that Vessel; and
- (b) all claims, rights and remedies of the relevant Vessel Owner against the government or official authority or person or persons claiming to be or to represent a government or official authority or other entity in relation to (a) above.

“**Resolution Authority**” means any body which has authority to exercise any Write-down and Conversion Powers.

“**Restricted Person**” means a person that is:

- (a) listed on, or owned or controlled by a person listed on any Sanctions List;
- (b) located in, incorporated under the laws of, or owned or controlled by, or acting on behalf of, a person located in or organised under the laws of a Sanctioned Country; or
- (c) otherwise a target of Sanctions (being a person with whom a US person or other national under the jurisdiction of a Sanctions Authority would be prohibited or restricted by law from engaging in trade, business or other activities or against whom Sanctions are otherwise directed).

“**Sanctioned Country**” means a country or territory that is, or whose government is, the subject of Sanctions broadly prohibiting dealings with such government, country or territory, including, without limitation, as at the date of this Agreement, Cuba, Iran, North Korea and Syria.

“**Sanctions**” means any economic or trade sanctions, laws, embargoes, regulations, freezing provisions, prohibitions or other restrictions relating to trading, doing business, investment, exporting, financing or making assets available (or other activities similar to or connected with any of the foregoing):

- (a) imposed by law or regulation of the United Kingdom, the Council of the European Union or any of its Members States, the United Nations or its Security Council or the government of the United States of America, whether or not any Obligor or any Affiliate is legally bound to comply with the foregoing;
- (b) the respective governmental institutions and agencies of any of the foregoing, including without limitation, OFAC, the United States Department of State, and the Office of Financial Sanctions Implementation Her Majesty’s Treasury (OFSI) (together, the “**Sanctions Authorities**”); or
- (c) otherwise imposed by any law or regulation by which any Obligor or any Affiliate of any of them is bound or, as regards a regulation, compliance with which is reasonable in the ordinary course of business of any Obligor or any Affiliate of any of them.

“**Sanctions List**” means the “Specially Designated Nationals and Blocked Persons” list issued by OFAC, the “Consolidated List of Financial Sanctions Targets and Investment Ban List” issued by OFSI, or any similar list issued or maintained or made public by any of the Sanctions Authorities that has the effect of prohibiting transactions with such persons.

“**Screen Rate**” means the London interbank offered rate administered by ICE Benchmark Administration Limited (or any other person which takes over the administration of that rate)

for the relevant currency and period displayed on pages LIBOR01 or LIBOR02 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters. If such page or the service ceases to be available, the Agent may specify another page or service displaying the relevant rate after consultation with the Borrower.

“**Screen Rate Replacement Event**” means, in relation to a Screen Rate:

- (a) the methodology, formula or other means of determining that Screen Rate has, in the opinion of the Majority Lenders and the Borrower materially changed;
- (b)
  - (i)
    - (A) the administrator of that Screen Rate or its supervisor publicly announces that such administrator is insolvent; or
    - (B) information is published in any order, decree, notice, petition or filing, however described, of or filed with a court, tribunal, exchange, regulatory authority or similar administrative, regulatory or judicial body which reasonably confirms that the administrator of that Screen Rate is insolvent,

provided that, in each case, at that time, there is no successor administrator to continue to provide that Screen Rate;
  - (ii) the administrator of that Screen Rate publicly announces that it has ceased or will cease, to provide that Screen Rate permanently or indefinitely and, at that time, there is no successor administrator to continue to provide that Screen Rate;
  - (iii) the supervisor of the administrator of that Screen Rate publicly announces that such Screen Rate has been or will be permanently or indefinitely discontinued; or
  - (iv) the administrator of that Screen Rate or its supervisor announces that that Screen Rate may no longer be used; or
- (c) the administrator of that Screen Rate determines that that Screen Rate should be calculated in accordance with its reduced submissions or other contingency or fallback policies or arrangements and either:
  - (i) the circumstance(s) or event(s) leading to such determination are not (in the opinion of the Majority Lenders and the Borrower) temporary; or
  - (ii) that Screen Rate is calculated in accordance with any such policy or arrangement for a period no less than the period opposite that Screen Rate in Schedule 9 (*Screen Rate contingency periods*); or
- (d) in the opinion of the Majority Lenders and the Borrower, that Screen Rate is otherwise no longer appropriate for the purposes of calculating interest under this Agreement.

**“Secured Liabilities”** means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of each Obligor to any Finance Party under or in connection with any Finance Document.

**“Secured Party”** means each Finance Party, from time to time party to this Agreement, any Receiver or any Delegate (together the **“Secured Parties”**).

**“Security”** means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

**“Security Documents”** means:

- (a) any Mortgage;
- (b) any Deed of Covenants;
- (c) any General Assignment;
- (d) any Accounts Security;
- (e) any Charter Assignment;
- (f) any Guarantee;
- (g) any Manager’s Undertaking;
- (h) any Share Charge;
- (i) any Subordination and Assignment Agreement; and
- (j) any other document as may be executed to guarantee and/or secure any amounts owing to the Finance Parties under any Finance Document.

**“Security Property”** means:

- (a) the Transaction Security expressed to be granted in favour of the Security Agent as trustee for the Secured Parties and all proceeds of that Transaction Security;
- (b) all obligations expressed to be undertaken by an Obligor to pay amounts in respect of the Secured Liabilities to the Security Agent as trustee for the Finance Parties and secured by the Transaction Security together with all representations and warranties expressed to be given by an Obligor or any other person in favour of the Security Agent as trustee for the Finance Parties;
- (c) the Security Agent’s interest in any turnover trust created under the Finance Documents; and
- (d) any other amounts or property, whether rights, entitlements, choses in action or otherwise, actual or contingent, which the Security Agent is required by the terms of the Finance Documents to hold as trustee on trust for the Secured Parties.

“**Seller**” means, in relation to a Vessel, the person specified as such in the relevant MOA.

“**Senior Secured Notes**”

- (a) the 9.875% First Priority Secured Notes due 2022 issued or to be issued by the Ultimate Parent pursuant to the indenture dated 31 October 2017 between, amongst others, the Ultimate Parent and Citibank, N.A. London Branch (the “**Senior Secured Note Indenture**”); and
- (b) any other senior secured notes issued by the Ultimate Parent pursuant to the Senior Secured Note Indenture *provided that* the Ultimate Parent has confirmed in writing that the incurrence of those notes will not breach the terms of any of the credit facility documents or pari passu debt documents related thereto.

“**Share Charges**” means together:

- (a) the share security deed granted or to be granted (as the context so requires) by the Parent in favour of the Security Agent over the entire share capital in the Borrower; and
- (b) each share security deed granted or to be granted (as the context so requires) by the Borrower in favour of the Security Agent over the entire share capital in each Vessel Owner,

in each case in the agreed form (and each a “**Share Charge**”).

“**Specified Time**” means a time determined in accordance with Schedule 7 (*Timetables*).

“**Subordination and Assignment Agreement**” means a subordination and assignment agreement entered into or to be entered into by the Transaction Obligors and the Security Agent in the agreed form.

“**Subsidiary**” means a subsidiary undertaking within the meaning of section 1162 of the Companies Act 2006.

“**Tax**” means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

“**Technical Management Agreement**” means, in relation to a Vessel, any technical management agreement entered into or to be entered into (as applicable) between the Vessel Owner owning that Vessel and an Approved Technical Manager in form and substance acceptable to the Agent (acting reasonably and without delay, and on the instructions of the Majority Lenders).

“**Termination Date**” means 16 July 2022.

“**Total Commitments**” means the aggregate of the Commitments.

“**Total Loss**” means, in relation to a Vessel:

- (a) any actual, constructive, compromised, agreed or arranged total loss of that Vessel;
- (b) any expropriation, confiscation, requisition or acquisition of that Vessel (excluding requisition for hire) , whether or not for consideration (full, partial or nominal),

which is effected by any government or official authority or by any person or persons claiming to be or to represent a government or official authority; and

- (c) any arrest, capture, seizure or detention of that Vessel (including any hijacking or theft) unless it is within sixty (60) days redelivered to the relevant Vessel Owner's full control.

**"Total Loss Date"** means, in relation to a Vessel:

- (a) in the case of an actual loss of that Vessel, the date on which it occurred or, if that is unknown, the date when that Vessel was last heard of;
- (b) in the case of a constructive, compromised, agreed or arranged total loss of that Vessel, the earliest of:
  - (i) the date on which a notice of abandonment is given to the insurers; and
  - (ii) the date of any compromise, arrangement or agreement made by or on behalf of the relevant Vessel Owner with that Vessel's insurers in which the insurers agree to treat that Vessel as a total loss.

**"Tranche"** means each part of the Loan made or to be made available to the Borrower to finance or refinance in part each Vessel in the principal amount not exceeding the Maximum Tranche Amount for that Tranche (together the **"Tranches"**).

**"Transaction Obligors"** means the Borrower, the Vessel Owners, the Parent and the Ultimate Parent.

**"Transaction Security"** means the Security created or evidenced or expressed to be created or evidenced under the Security Documents.

**"Transfer Certificate"** means a certificate substantially in the form set out in Schedule 4 (*Form of Transfer Certificate*) or any other form agreed between the Agent and the Borrower.

**"Transfer Date"** means, in relation to an assignment or a transfer, the later of:

- (a) the proposed Transfer Date specified in the relevant Assignment Agreement or Transfer Certificate; and
- (b) the date on which the Agent executes the relevant Assignment Agreement or Transfer Certificate.

**"Unpaid Sum"** means any sum due and payable but unpaid by an Obligor under any Finance Document.

**"US Tax Obligor"** means:

- (a) an Obligor which is resident for tax purposes in the United States of America; or
- (b) an Obligor some or all of whose payments under the Finance Documents are from sources within the US for US federal income tax purposes.

**"Utilisation"** means a utilisation of the Facility.

**"Utilisation Date"** means the date of a Utilisation, being the date on which that Utilisation is to be made.

“**Utilisation Request**” means a notice substantially in the form set out in Schedule 3 (*Utilisation Request*).

“**Valuation**” means, in relation to a Vessel, a valuation prepared:

- (a) as at a date not more than fifteen (15) days previously or, in the case of a valuation prepared for the purposes of Clause 4 (*Conditions of Utilisation*), twenty (20) Business Days previously;
- (b) by an Approved Broker selected or appointed by the Agent;
- (c) with or without physical inspection of the Vessel (as the Agent may require);
- (d) on the basis of an “as is, where is” sale for prompt delivery for cash on normal arm’s length commercial terms as between a willing seller and a willing buyer, free of any existing charter or other contract of employment.

“**VAT**” means:

- (a) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and
- (b) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) above, or imposed elsewhere.

“**Vessel Acquisition Criteria**” means, at the time of a Permitted Acquisition:

- (a) the relevant Vessel is a Group A Vessel, a Group B Vessel or a Group C Vessel; provided that if the relevant Vessel is not a Group A Vessel, a Group B Vessel or a Group C Vessel, it may only be acquired with the prior written consent of the Majority Lenders (acting in their sole discretion and with full power to withhold);
- (b) no Event of Default is continuing or would result from the acquisition;
- (c) the Vessel is to be purchased for cash on arm’s length commercial terms, not from any Related Party, provided that a purchase from a Related Party shall be permitted with the prior written consent of the Agent (such consent not to be unreasonably withheld or delayed);
- (d) the relevant Vessel Owner which will acquire the Vessel does not own any other assets (except Cash deposited in its Earnings Account which is to be used to make the payments required under the relevant MOA), has not previously engaged in any other activities and has acceded to this Agreement in accordance with the requirements of Clause 28 (*Changes to the Obligors*);
- (e) the Agent has received evidence in form and substance satisfactory to it that the net charter income on an operating basis, excluding CAPEX, during the 12 month period following the acquisition is greater than the budgeted Operating Expenses for the relevant Vessel for that period, unless otherwise mutually agreed between Borrower and Agent (which agreement the Agent will have full power to withhold, acting on the instructions of all Lenders);
- (f) the Borrower has delivered the budget referred to in paragraph (a) of Clause 19.5 (*Permitted Operating and G&A Expenses*) and such budget has been approved by the Agent in accordance with the provisions of such paragraph;

- (g) the Borrower has provided evidence to the Agent in form and substance satisfactory to it that the Working Capital Requirement in relation to that Vessel will be satisfied on completion of the acquisition; and
- (h) the Borrower has delivered the forecasts referred to in paragraph (a) of Clause 24.7 (*Dry Docking Reserve*), such forecasts have been approved by the Agent in accordance with the provisions of paragraph (b) of Clause 24.7 (*Dry Docking Reserve*) and the Agent has received evidence in form and substance satisfactory to it that any required Initial Dry Docking Equity Contribution has been made and deposited into the Dry Docking Reserve Account in accordance with Clause 24.7 (*Dry Docking Reserve*); and
- (i) the Agent, or its duly authorised representative, has received all of the documents and other evidence listed in Schedule 2Part IV (*Conditions Precedent to a Permitted Acquisition*) in form and substance satisfactory to the Agent.

“**Vessels**” means the Initial Vessel and any Additional Vessel (and each a “**Vessel**”) except to the extent it has been sold or has become a Total Loss or is no longer a Mortgaged Vessel.

“**Vessel Owner**” means the Original Vessel Owner and, following accession to this Agreement in accordance with Clause 28.2 (*Additional Vessel Owners*), an Additional Vessel Owner.

“**Voting Stock**” means, of any person as of any date, the Capital Stock of such person that is at the time entitled to vote in the election of the Board of Directors of such person.

“**VTL Coverage**” has the meaning given to such term in Clause 25.1 (*Additional security*).

“**Working Capital Requirement**” has the meaning given in Clause 20.1(b) (*Financial covenants*).

“**Write-down and Conversion Powers**” means:

- (a) in relation to any Bail-In Legislation described in the EU Bail-In Legislation Schedule from time to time, the powers described as such in relation to that Bail-In Legislation in the EU Bail-In Legislation Schedule; and
- (b) in relation to any other applicable Bail-In Legislation:
  - (i) any powers under that Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers; and
  - (ii) any similar or analogous powers under that Bail-In Legislation.

## 1.2 Construction

- (a) Unless a contrary indication appears, a reference in this Agreement to:

- (i) the “**Account Bank**”, the “**Agent**”, any “**Finance Party**”, any “**Lender**”, any “**Obligor**”, any “**Party**”, any “**Secured Party**”, the “**Security Agent**” or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Finance Documents and, in the case of the Security Agent, any person for the time being appointed as Security Agent or Security Agents in accordance with the Finance Documents;
- (ii) an “**agency**” of a state includes any local or other authority, self-regulating or other recognised body or agency, central or federal bank, department, government, legislature, minister, ministry, self-regulating organisation, official or public or statutory person (whether autonomous or not) or, or of the government of, that state or political sub-division in or of that state;
- (iii) a document in “**agreed form**” is a document which is previously agreed in writing by or on behalf of any Obligor party to it and the Agent or, if not so agreed, is in the form and substance specified by the Agent (acting with the instructions of all Lenders);
- (iv) “**approved**” means approved in writing by the Agent, acting on the instructions of the Majority Lenders;
- (v) “**assets**” includes present and future properties, revenues and rights of every description;
- (vi) “**authorisation**” means an authorisation, consent, approval, resolution, licence, exemption by a person by whom the same is required by law;
- (vii) “**disposal**” includes a sale, transfer, assignment, grant, lease, licence, declaration of trust or other disposal, whether voluntary or involuntary, and “dispose” will be construed accordingly;
- (viii) the “**equivalent**” of an amount specified in a particular currency (“specific currency amount”) shall be construed as a reference to the amount of the other relevant currency which can be purchased with the specific currency amount in the London foreign exchange market at 11 a.m. on the date the calculation falls to be made for spot delivery, as conclusively determined by the Agent (with the relevant exchange rate of such purchase being the “Agent’s spot rate of exchange”);
- (ix) “**excess risks**” means, in relation to a Vessel, the proportion (if any) of claims for general average, salvage and salvage charges not recoverable under the hull and machinery insurances in respect of that Vessel in consequence of the value at which a Vessel is assessed for the purpose of such claims exceeding its insured value;
- (x) a “**Finance Document**” or “**Relevant Document**” or any other agreement or instrument is a reference to that Finance Document or Relevant Document or other agreement or instrument as amended, novated, supplemented, extended or restated from time to time;
- (xi) “**guarantee**” means any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person



where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;

- (xii) “**indebtedness**” includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- (xiii) “**month**” means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:
  - (1) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day;
  - (2) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month; and
  - (3) the above rules will only apply to the last month of any period;
- (xiv) “**obligatory insurances**” means all insurances effected, or which any Vessel Owner is required to effect, under Clause 23.2 (*Maintenance of Obligatory Insurances*) or any other provision of any Finance Document;
- (xv) a “**person**” includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership or other entity (whether or not having separate legal personality);
- (xvi) a “**policy**” in relation to any insurance, includes a slip, cover note, certificate of entry or other document evidencing the contract of insurance or its terms;
- (xvii) “**protection and indemnity risks**” means the usual risks covered by a protection and indemnity association that is a member of the International Group of P&I Clubs, including pollution risks and the proportion (if any) of any sums payable to any other person or persons in case of collision which are not recoverable under the hull and machinery policies by reason of the incorporation in them of clause 6 of the International Time Clauses (Hulls)(1/11/02 or 1/11/03) or clause 8 of the Institute Time Clauses (Hulls) (1/10/83) or the Institute Amended Running Down Clause (1/10/71) or any equivalent provision;
- (xviii) a “**regulation**” includes any regulation, rule, official directive, request or guideline (whether or not having the force of law and, in the case of any request or guideline, with which it would, in the normal course of its business comply) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
- (xix) “**war risks**” includes the risk of mines and all risks excluded by clause 29 of the Institute Hull Clauses (1/11/02 or 1/11/03) or clause 24 of the Institute Time clauses (Hulls) (1/11/1995) or clause 23 of the Institute Time Clauses (Hulls) (1/10/83);
- (xx) words importing the plural shall include the singular and vice versa and words importing a gender shall include every gender;

(xxi) a provision of law is a reference to that provision as amended or re-enacted; and

(xxii) a time of day is a reference to London time.

(b) Section, Clause and Schedule headings are for ease of reference only.

(c) Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.

(d) A Default (other than an Event of Default) is “**continuing**” if it has not been remedied or waived and an Event of Default is “**continuing**” if it has not been waived.

### 1.3 **Third Party Rights**

(a) Unless expressly provided to the contrary in a Finance Document a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the “**Third Parties Act**”) to enforce or to enjoy the benefit of any term of this Agreement.

(b) Notwithstanding any term of any Finance Document the consent of any person who is not a Party is not required to rescind or vary this Agreement at any time.

(c) Any Receiver, Delegate or any person described in Clause 1.1 (*Definitions*) may, subject to this Clause 1.3(c) and the Third Parties Act, rely on any Clause of this Agreement which expressly confers rights on it.

### 1.4 **Conflict**

In the event of conflict between the provisions of this Agreement and any other Finance Documents, unless a contrary intention appears the provision of this Agreement shall prevail.

## 2. **The Facility**

### 2.1 **The Facility**

Subject to the terms of this Agreement, the Lenders shall make available to the Borrower a term loan facility in multiple Tranches in an aggregate amount not exceeding the Maximum Loan Amount (as adjusted in accordance with the terms of this Agreement).

### 2.2 **Finance Parties’ rights and obligations**

(a) The obligations of each Finance Party under the Finance Documents are several. Failure by a Finance Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.

(b) The rights of each Finance Party under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Finance Party from an Obligor shall be a separate and independent debt.

(c) A Finance Party may, except as otherwise stated in the Finance Documents, separately enforce its rights under the Finance Documents.

3. **Purpose**

3.1 **Purpose**

The Borrower shall apply all amounts borrowed by it under the Facility only for the purpose of financing or refinancing part of the acquisition costs incurred by or on behalf of the Vessel Owners in respect of Permitted Acquisitions or payment of any fees, costs or expenses payable under this Agreement.

3.2 **Monitoring**

No Finance Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

4. **Conditions of Utilisation**

4.1 **Initial conditions precedent**

The Borrower may not deliver a Utilisation Request unless:

- (a) In relation to the first Utilisation, the Agent, or its duly authorised representative, has received all of the documents and other evidence listed in Schedule 2 Part I (*Conditions Precedent to First Utilisation Request*) in form and substance satisfactory to the Agent. The Agent shall notify the Obligors and the Lenders promptly upon being so satisfied; and
- (b) in relation to a Utilisation of a Tranche in relation to a Permitted Acquisition, the relevant Additional Vessel Owner has acceded to this Agreement in accordance with the requirements of Clause 28 (*Changes to the Obligors*).

4.2 **Utilisation conditions precedent**

The Lenders will only be obliged to comply with Clause 5.4 (*Lenders' participation*) in relation to a Utilisation if:

- (a) in respect of the first Utilisation, on or before that Utilisation Date (and prior to such Utilisation), the Agent has received all of the documentation and other evidence listed in Schedule 2 Part II (*Conditions Precedent to First Utilisation*) in form and substance satisfactory to the Agent;
- (b) in respect of any subsequent Utilisation, on or before that Utilisation Date (and prior to such Utilisation), the Agent has received all of the documentation and other evidence listed in Schedule 2 Part IV (*Conditions Precedent to a Permitted Acquisition*) and Schedule 2 Part V (*Conditions Precedent to each Subsequent Utilisation*) in form and substance satisfactory to the Agent except to the extent any such document or evidence has already been satisfied in connection with a Permitted Acquisition;
- (c) on the date of that Utilisation Request and on the proposed Utilisation Date:
  - (i) no Default is continuing or would result from the proposed Utilisation;
  - (ii) all representations and warranties under any of the Finance Documents made or to be made by an Obligor are true and accurate as at that date with reference to the facts and circumstances then existing;

- (iii) the provisions of Clause 10.3 (*Alternative basis of interest or funding*) do not apply; and
- (iv) the relevant Vessel has not been the subject of a sale (or binding commitment to sell) by the relevant Vessel Owner or Total Loss;
- (d) the Utilisation requested is not for more than the Maximum Tranche Amount and once made would not result in the Loan being greater than the Maximum Loan Amount (in each case as evidenced by the relevant Valuations); and
- (e) the Agent is satisfied that the Utilisation requested shall not exceed the Total Commitments.

#### 4.3 **Waiver of Conditions Precedent**

If the Agent, acting upon the instructions of all Lenders (which authorisation the relevant Lenders shall have full power to withhold), permits a Utilisation of the Facility before certain of the conditions referred to in Clause 4.2(a) and/or Clause 4.2(b) are satisfied, the Borrower shall ensure that such conditions are satisfied with five (5) Business Days after the relevant Utilisation Date (or such longer period as the Agent may, with the authorisation of all Lenders, specify) and any failure of the Borrower to do so within that period shall constitute an immediate Event of Default.

#### 4.4 **Conditions subsequent**

The Borrower undertakes to deliver or to cause to be delivered to the Agent within thirty (30) days after a Utilisation Date the relevant additional documents and other evidence listed in Schedule 2 Part VI (*Conditions Subsequent*).

### 5. **Utilisation**

#### 5.1 **Delivery of Utilisation Request**

The Borrower may utilise the Facility by delivery to the Agent of a duly completed Utilisation Request not later than the Specified Time (or such shorter period as the Agent may agree in its sole discretion, acting on the instructions of the Lenders).

#### 5.2 **Completion of Utilisation Request**

The Utilisation Request is irrevocable and will not be regarded as having been duly completed unless:

- (a) it specifies the relevant Tranche and Vessel;
- (b) the proposed Utilisation Date is a Business Day within the Availability Period for that Tranche;
- (c) the currency and amount of the Utilisation comply with Clause 5.3 (*Currency and amount*);
- (d) it specifies the account and bank to which the proceeds of that Tranche are to be credited.

#### 5.3 **Currency and amount**

- (a) The currency specified in a Utilisation Request must be Dollars.

- (b) The amount of the proposed Utilisation must be an amount which is not more than, in respect of each Tranche, the Maximum Tranche Amount for that Tranche.

#### 5.4 **Lenders' participation**

- (a) If the conditions set out in this Agreement have been met, each Lender shall make its participation in each Tranche available by the Utilisation Date through its Facility Office.
- (b) The amount of each Lender's participation in each Utilisation will be equal to the proportion borne by its Available Commitment to the Available Facility immediately prior to making the relevant Utilisation. No Lender is obliged to participate in the relevant Utilisation if, as a result, its share in the Loan then outstanding or in respect of which the Utilisation Request has been issued would exceed its Commitment.
- (c) The Agent shall notify each Lender of the amount of the relevant Utilisation and the amount of its participation in each Utilisation by the Specified Time.

#### 5.5 **Disbursement**

The Agent shall, on each Utilisation Date, pay to, or for the account of, the Borrower or the relevant Additional Vessel Owner (as the case may be) the amount which the Agent receives from the Lenders in respect of the Utilisation, such payment to be made in like funds as the Agent so receives from the Lenders to the account as specified in the Utilisation Request.

#### 5.6 **Prepositioning of funds**

If, in respect of the Utilisation of a Tranche, the Agent, at the request of the Borrower and on terms acceptable to the Agent (acting on the instructions all Lenders, which approval they shall have full power to withhold), prepositions (either from an account of the Agent or an Affiliate of the Agent) any funds on suspense with the relevant Seller's bank (the "**Seller's Bank**") or an Approved Suspense Account as directed by the Borrower in the relevant Utilisation Request (the date of such preposition, the "**Preposition Date**"):

- (a) each Lender agrees to fund its participation in the relevant Utilisation on a day not more than two (2) Business Days after the Agent confirms receipt of:
  - (i) a validly served Utilisation Request; and
  - (ii) all of the documentation and other evidence listed in, as applicable, Schedule 2 Part II (*Conditions Precedent to First Utilisation*), Schedule 2 Part IV (*Conditions Precedent to a Permitted Acquisition*) and Schedule 2 Part V (*Conditions Precedent to each Subsequent Utilisation*) in form and substance satisfactory to the Agent, other than the documentation and evidence which the Borrower demonstrates to the satisfaction of the Agent that it will not be able to obtain until the date of the Permitted Acquisition (such other documentation and evidence that remains outstanding, the "**Closing CPs**");
- (b) each Lender and the Borrower acknowledges and agrees that:
  - (i) the Agent is entitled to issue an MT199 payment instruction or other similar communication in form and substance acceptable to the Agent (acting on instructions of all Lenders) to stipulate that such funds will be held by the Seller's Bank in accordance with the terms of such MT199 payment instruction and will not be released if a Default is continuing or would result

from the release or if the Agent has not received evidence that all of the Closing CPs are satisfied; or, as the case may be,

- (ii) such funds will not be released from the Approved Suspense Account if a Default is continuing or would result from the release or if the Agent has not received evidence that all of the Closing CPs are satisfied;
- (c) the Borrower shall, without duplication, indemnify each Finance Party against any costs, loss or liability it may incur in connection with such arrangement;
- (d) the date on which the Lenders fund the relevant Utilisation or any part of the Utilisation for the purposes of transfer to the Seller's Bank constitutes the Utilisation Date and the Borrower agrees to pay interest on the amount of the funds so prepositioned at the rate described in Clause 8.1 (*Calculation of interest*) on the basis of successive interest periods of one day and so that interest shall be paid together with the first payment of interest on the relevant Tranche after the Utilisation Date in respect of it or, if such Utilisation Date does not occur, within three (3) Business Days of demand by the Agent; and
- (e) if all the conditions stipulated in Schedule 2 Part II, Schedule 2 Part IV and Schedule 2 Part V (as applicable) have not been satisfied by 5.00 p.m. on the fifth Business Day following the Utilisation Date requested in the relevant Utilisation Request and the proceeds of the Utilisation are returned to the Agent who shall return them to the Lenders:
  - (i) the Borrower shall pay all accrued interest and fees in respect of such returned proceeds in accordance with paragraph (d) above;
  - (ii) the Borrower may submit a further Utilisation Request for re-advance of the relevant Tranche during the Availability Period if:
    - (1) the Borrower has not previously submitted a reissued Utilisation Request for re-advance of the Tranche pursuant to this Clause 5.6 (*Prepositioning of funds*); and
    - (2) the Borrower procures that the Agent is provided with such confirmations of the continuing effectiveness of the terms of the Finance Documents as the Agent may require; and
  - (iii) if the Permitted Acquisition to which the Tranche relates does not complete successfully for any reason, the Available Commitments shall be increased by the amount of the relevant Tranche.

## 6. **Repayment**

### 6.1 **Repayment Instalments**

The Loan (including all Tranches) shall be repaid in full as a bullet repayment on the Termination Date, together with all other amounts then due and outstanding under the Finance Documents.

### 6.2 **No Reborrowing**

Amounts of the Loan which are repaid or prepaid shall not be available for reborrowing other than in accordance with Clause 5.6(e).

### 6.3 Release of Security

If no Event of Default is continuing, simultaneously with completion of a Permitted Vessel Disposal by a Vessel Owner (in accordance with the terms and conditions of this Agreement) and prepayment in full of the relevant Tranche and all other amounts pre-payable or payable under the Finance Documents in connection with such Permitted Vessel Disposal, the Security Agent shall, at the request and cost of the Borrower, release, without recourse or warranty, each of the following Security Documents:

- (a) the Mortgage in respect of the relevant Vessel;
- (b) if applicable, the Deed of Covenants in respect of the relevant Vessel;
- (c) the General Assignment in respect of the relevant Vessel;
- (d) any Charter Assignment in respect of the relevant Vessel; and
- (e) each Manager's Undertaking in respect of the relevant Vessel.

## 7. Prepayment and cancellation

### 7.1 Illegality

If, in any applicable jurisdiction, it becomes unlawful for any Lender to perform any of its obligations as contemplated by this Agreement or to fund or maintain its participation in the Loan or any part of the Loan or it becomes unlawful for any Affiliate of a Lender for that Lender to do so:

- (a) that Lender shall promptly notify the Agent upon becoming aware of that event;
- (b) upon the Agent notifying the Borrower, the Commitment of that Lender will be immediately cancelled; and
- (c) the Borrower shall repay that Lender's participation in the Loan on the last day of the Interest Period for the Loan occurring after the Agent has notified the Borrower or, if earlier, the date specified by the Lender in the notice delivered to the Agent (being no earlier than the last day of any applicable grace period permitted by law).

### 7.2 Change of Control

If a Change of Control occurs, then:

- (a) the Borrower shall promptly notify the Agent upon becoming aware of that event;
- (b) no Lender shall be obliged to fund a Utilisation; and
- (c) the Loan, together with accrued interest, and all other amounts accrued under the Finance Documents shall become immediately due and payable, whereupon the Total Commitments will be cancelled and all such outstanding amounts will become immediately due and payable.

### 7.3 Mandatory prepayment

- (a) If a Vessel is sold or becomes a Total Loss, the Borrower shall be obliged to (and without prejudice to the restrictions on sale of a Vessel and/or insurance covenants

and requirements as otherwise provided in the Finance Documents) prepay, as a minimum amount, the aggregate of:

- (i) the outstanding balance of the Tranche relating to the subject Vessel; and
  - (ii) such amount of the balance of the Loan that would be required to be prepaid in order to ensure that the LTV Ratio immediately after the sale or Total Loss (and, for the purposes of such calculation, the Vessel which is sold or which becomes a Total Loss shall be excluded but the aggregate value of any additional security provided pursuant to Clause 25 (*Security Shortfall*) shall be included to the extent that such additional security has not been released pursuant to Clause 25.2 (*Release of additional security*)) is no greater than the LTV Ratio immediately prior to such sale or Total Loss (including the Vessel which is sold or which becomes a Total Loss).
- (b) If a Vessel is sold or becomes a Total Loss, the required amount in sub-clause (a) shall be prepaid on the date on which the sale is completed by delivery of that Vessel to the buyer or, if that Vessel becomes a Total Loss, on the earlier of the date falling one hundred and thirty (130) days after the Total Loss Date and two (2) Business Days after the date of receipt by the Agent of the proceeds of insurance relating to such Total Loss.
  - (c) Any prepayments of principal under this Clause 7.3 shall be applied firstly in repayment of the then principal outstandings under the Tranche relating to that Vessel and any balance to be applied against the other Tranches pro rata.
  - (d) Any proceeds of the sale or Total Loss of a Vessel after the mandatory prepayments in paragraph (a) above have been made shall thereafter be applied against the other Tranches pro rata until such time that the LTV Ratio (and, for the purposes of such calculation, the Vessel which is sold or which becomes a Total Loss shall be excluded but the aggregate value of any additional security provided pursuant to Clause 25 (*Security Shortfall*) shall be included to the extent that such additional security has not been released pursuant to Clause 25.2 (*Release of additional security*)) equals 50%. Thereafter any remaining proceeds of the sale or Total Loss shall be released to the Borrower for use in a manner which is not prohibited by the Finance Documents, provided that if an Event of Default has occurred and is continuing such remaining proceeds shall be applied in full in prepayment of the Loan in accordance with paragraph (c) above.
  - (e) If there is any loss in respect of a Vessel or a claim under the Insurances in respect of a Vessel exceeding the Major Casualty Amount which in each case is not a Total Loss, the Borrower irrevocably authorises, and shall procure that all such things are done to enable the Agent to apply any proceeds received from such loss or claim as a prepayment against the relevant Tranche relating to that Vessel unless such proceeds are applied within ninety (90) days, or such longer period as the Borrower can demonstrate to the satisfaction of the Agent is necessary to effect the repairs to the Vessel, of being received towards repairing the relevant Vessel in accordance with the relevant Security Documents (or otherwise are used to reimburse the Borrower for amounts made for such repair) and during which time the Borrower, the Parent, the Ultimate Parent and the Vessel Owners shall procure that such funds are immediately credited to and remain in the Earnings Account on and from their receipt.



#### 7.4 Automatic cancellation

The unutilised Commitment (if any) of each Lender in respect of each relevant Tranche shall be automatically cancelled at the earlier of (i) close of business on the date on which the relevant Tranche is made available and (ii) at the end of the Availability Period.

#### 7.5 Voluntary cancellation

- (a) The Borrower may, upon giving to the Agent not less than five (5) Business Days' prior notice, cancel the whole or any part of the Available Facility (but, if in part, being an amount that reduces the Available Facility by a minimum amount of US\$500,000 and thereafter in increments of US\$500,000 (or the full remaining Available Facility).
- (b) Any cancellation under this Clause 7.5 shall reduce the Available Commitments of the Lenders rateably.
- (c) If the whole or any part of the Available Facility is cancelled by the Borrower pursuant to this Clause 7.5, the Borrower shall pay the Agent (for the account of the Lenders) on the date of such cancellation a cancellation fee equal to 2% of the cancelled amount less any Commitment Fee already paid to the Lenders solely in respect of the cancelled amount in accordance with Clause 11.1 (*Commitment fee*).

#### 7.6 Voluntary prepayment

- (a) The Borrower may, upon giving to the Agent not less than five (5) Business Days' prior notice, prepay the whole or any part of the Loan (but, if in part, being an amount that reduces the amount of the Loan by a minimum amount of US\$500,000 and thereafter in increments of US\$500,000).
- (b) The Loan may only be prepaid pursuant to this Clause 7.6 after the last day of the Availability Period (or, if earlier, the day on which the Available Facility is zero).
- (c) Any partial prepayments under this Clause 7.6 shall be applied against the Loan pro rata as between each Tranche.

#### 7.7 Right of replacement or repayment and cancellation in relation to a single Lender

- (a) If:
  - (i) any sum payable to any Lender by an Obligor is required to be increased under paragraph (b) of Clause 12.2 (*Tax gross-up*); or
  - (ii) any Lender claims indemnification from the Company under Clause 12.3 (*Tax indemnity*) or Clause 13.1 (*Increased costs*),

the Borrower may, whilst the circumstance giving rise to the requirement for that increase or indemnification continues, give the Agent notice of cancellation of the Commitment(s) of that Lender and its intention to procure the repayment of that Lender's participation in the Loan or give the Agent notice of its intention to replace that Lender in accordance with paragraph (d) below.

- (b) On receipt of a notice of cancellation referred to in paragraph (a) above, the Commitment(s) of that Lender shall immediately be reduced to zero.

- (c) On the last day of each Interest Period which ends after the Borrower has given notice of cancellation under paragraph (a) above (or, if earlier, the date specified by the Borrower in that notice), the Borrower shall repay that Lender's participation in the Loan.
- (d) If:
- (i) any of the circumstances set out in paragraph (a) above apply to a Lender; or
  - (ii) an Obligor becomes obliged to pay any amount in accordance with Clause 7.1 (*Illegality*) to any Lender,
- the Borrower may, on five (5) Business Days' prior notice to the Agent and that Lender, replace that Lender by requiring that Lender to (and, to the extent permitted by law, that Lender shall) transfer pursuant to Clause 27 (*Changes to the Lenders*) all (and not part only) of its rights and obligations under this Agreement to an Eligible Institution which confirms its willingness to assume and does assume all the obligations of the transferring Lender in accordance with Clause 27 (*Changes to the Lenders*) for a purchase price in cash payable at the time of the transfer in an amount equal to the outstanding principal amount of such Lender's participation in the outstanding Loan and all accrued interest, Break Costs and other amounts payable in relation thereto under the Finance Documents.
- (e) The replacement of a Lender pursuant to paragraph (d) above shall be subject to the following conditions:
- (i) the Borrower shall have no right to replace the Agent (other than in accordance with Clause 29.12 (*Resignation of the Agent and the Security Agent*));
  - (ii) neither the Agent nor any Lender shall have any obligation to find a replacement Lender;
  - (iii) in no event shall the Lender replaced under paragraph (d) above be required to pay or surrender any of the fees received by such Lender pursuant to the Finance Documents; and
  - (iv) the Lender shall only be obliged to transfer its rights and obligations pursuant to paragraph (d) above once it is satisfied that it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to that transfer.
- (f) A Lender shall perform the checks described in paragraph (e)(iv) above as soon as reasonably practicable following delivery of a notice referred to in paragraph (d) above and shall notify the Agent and the Borrower when it is satisfied that it has complied with those checks.

**7.8 Right of cancellation in relation to a Defaulting Lender**

- (a) If any Lender becomes a Defaulting Lender, the Borrower may, at any time whilst the Lender continues to be a Defaulting Lender, give the Agent five (5) Business Days' notice of cancellation of each Available Commitment of that Lender.
- (b) On the notice referred to in paragraph (a) above becoming effective, each Available Commitment of the Defaulting Lender shall immediately be reduced to zero.

(c) The Agent shall as soon as practicable after receipt of a notice referred to in paragraph (a) above, notify all the Lenders.

## 7.9 Restrictions

- (a) Any notice of cancellation or prepayment given by any Party under this Clause 6.3 (*Prepayment and cancellation*) shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment. The Agent must notify the Lenders promptly upon receipt of any such notice.
- (b) Any repayment or prepayment under this Agreement shall be made together with accrued interest on the amount repaid or prepaid, the Prepayment Fee and any applicable Break Costs, provided that no Prepayment Fee shall be payable only in respect of the following:
- (i) any prepayment pursuant to paragraph (b)(iii) of Clause 25.1 (*Additional security*);
  - (ii) any prepayment pursuant to Clause 7.3 (*Mandatory prepayment*) as a result of a Total Loss of a Vessel;
  - (iii) any prepayment pursuant to Clause 7.7 (*Right of replacement or repayment and cancellation in relation to a single Lender*);
  - (iv) any voluntary prepayment pursuant to Clause 7.6 (*Voluntary prepayment*) if that voluntary prepayment when aggregated with the total amount of all other voluntary prepayments made during the previous 12 month period in respect of which no Prepayment Fee was paid would not in aggregate exceed an amount equal to the higher of zero and (x) 5% of the Loan immediately after such prepayment, less (y) the aggregate amount of any prepayments made during such 12 month period to cure a VTL Coverage breach under Clause 25.1(b)(ii) (*Additional security*); or
  - (v) any prepayment pursuant to Clause 5.6(e) (*Prepositioning of funds*).
- (c) The Borrower shall not repay or prepay all or any part of the Loan or cancel all or any part of the Commitments except at the times and in the manner expressly provided for in this Agreement.
- (d) No amount of the Total Commitments cancelled under this Agreement may be subsequently reinstated.
- (e) If the Agent receives a notice under this Clause 6.3 it shall promptly forward a copy of that notice to either the Borrower or the Lenders, as appropriate.
- (f) If all or part of the Loan is repaid or prepaid, an amount of the Commitments (equal to the amount of the Loan which is repaid or prepaid) will be deemed to be cancelled on the date of repayment or prepayment. Any cancellation under this paragraph shall reduce the Commitments of the Lenders rateably.
- (g) Any prepayment of the Loan shall be applied *pro rata* to each Lender's participation in the Loan and each Tranche.

## 8. Interest

### 8.1 Calculation of interest

The rate of interest on each Tranche for each Interest Period is the percentage rate per annum which is the aggregate of the applicable:

- (a) Margin; and
- (b) LIBOR.

### 8.2 Payment of interest

The Borrower shall pay accrued interest on each Tranche on the last day of each Interest Period for such Tranche.

### 8.3 Default interest

If an Obligor fails to pay any amount payable by it under a Finance Document on its due date (after the expiration of any applicable grace period under Clause 26.1 (*Non-payment*)), interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at a rate which is 2% per annum higher than the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted a Utilisation in the currency of the overdue amount for successive Interest Periods, each of a duration selected by the Agent (acting reasonably). Any interest accruing under this Clause 8.3 shall be immediately payable by the Obligor on demand by the Agent. Default interest (if unpaid) arising on an overdue amount will be compounded with the overdue amount at the end of each Interest Period applicable to that overdue amount but will remain immediately due and payable.

### 8.4 Notification of rates of interest

The Agent shall promptly notify the Lenders and the Borrower of the determination of a rate of interest under this Agreement.

## 9. Interest Periods

### 9.1 Length of Interest Periods

- (a) Each Interest Period in respect of a Tranche shall start on the Utilisation Date for that Tranche or (if already made) on the last day of its preceding Interest Period and end on the next Quarter Date.
- (b) If an Interest Period would otherwise overrun the Termination Date, it will be shortened so that it ends on the Termination Date.

### 9.2 Non-Business Days

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

10. **Changes to the calculation of interest**

10.1 **Absence of quotations**

Subject to Clause 10.2 (*Market disruption*), if LIBOR is to be determined by reference to the Reference Banks but a Reference Bank does not supply a quotation by the Specified Time on the Quotation Day, the applicable LIBOR shall be determined on the basis of the quotations of the remaining Reference Banks.

10.2 **Market disruption**

- (a) If a Market Disruption Event occurs in relation to a Tranche for any Interest Period, then the rate of interest on each Lender's share of that Tranche for the Interest Period shall be the percentage rate per annum which is the sum of:
- (i) the Margin; and
  - (ii) the rate notified to the Agent by that Lender as soon as practicable and in any event before interest is due to be paid in respect of that Interest Period, to be that which expresses as a percentage rate per annum the cost to that Lender of funding its participation in a Tranche from whatever source it may reasonably select.
- (b) In this Agreement "**Market Disruption Event**" means:
- (i) at or about noon on the Quotation Day for the relevant Interest Period, the Screen Rate is not available and none or only one of the Reference Banks supplies a rate to the Agent to determine LIBOR for Dollars for the relevant Interest Period; or
  - (ii) before close of business in London on the Quotation Day for the relevant Interest Period, the Agent receives notifications from a Lender or Lenders (whose participations in a Tranche exceed fifty per cent. (50%) of that Tranche) that the cost to it or them of obtaining matching deposits in the Relevant Interbank Market would be in excess of LIBOR.

10.3 **Alternative basis of interest or funding**

- (a) If a Market Disruption Event occurs and the Agent so requires or the Borrower so requires, the Agent and the Borrower shall enter into negotiations (for a period of not more than thirty (30) days) with a view to agreeing a substitute basis for determining the rate of interest.
- (b) Any alternative basis agreed pursuant to paragraph (a) above shall, with the prior consent of all the Lenders and the Borrower, be binding on all Parties.

10.4 **Break Costs**

- (a) The Borrower shall, within three (3) Business Days of demand by a Finance Party (or at the time of prepayment of the relevant amount under Clause 6.3 (*Prepayment and cancellation*)), pay to that Finance Party its Break Costs attributable to all or any part of the Loan or Unpaid Sum being paid by the Borrower on a day other than the last day of an Interest Period for the Loan or Unpaid Sum.
- (b) Each Lender shall, as soon as reasonably practicable after a demand by the Agent, provide a certificate confirming the amount of its Break Costs for any Interest Period

in which they accrue, provided that neither the Original Lenders nor any other Lenders from time to time managed by Hayfin Capital Management LLP shall be entitled to claim Break Costs.

11. **Fees**

11.1 **Commitment fee**

- (a) The Borrower shall pay to the Agent (for the account of the Lenders) a commitment fee computed at the rate of two per cent. (2%) per annum on the aggregate amount of each Lender's Available Commitments in respect of the Facility from the date of this Agreement until the final day of the Availability Period ("**Commitment Fee**").
- (b) The accrued Commitment Fee is payable monthly in arrears or, if any amount of the Facility is unutilised as of the expiry of the Availability Period, the Commitment Fee in respect of the Available Commitment shall be paid on the earlier of:
  - (i) the last day of the Availability Period; and
  - (ii) the date on which the cancellation of the Available Commitment is effective.
- (c) The Agent shall be entitled to deduct any accrued Commitment Fee which has become due and payable and which remains unpaid from the proceeds of the Utilisations and apply it in payment of such fees.
- (d) No Commitment Fee shall accrue for the account of a Lender on any Available Commitment of that Lender in respect of any day on which that Lender is a Defaulting Lender.

11.2 **Agency fee**

The Borrower shall pay to the Agent (for its own account) an agency fee in the amount and at the times agreed in the Fee Letter.

11.3 **Upfront fee**

The Borrower shall pay to the Agent (for the account of the Lenders) an upfront fee in the amount and at the times agreed in the Fee Letter.

12. **Tax gross up and indemnities**

12.1 **Definitions**

In this Agreement:

- (a) "**Protected Party**" means a Finance Party which is or will be subject to any liability or required to make any payment for or on account of Tax in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document.
- (b) "**Tax Credit**" means a credit against, relief or remission for, or repayment of any Tax.
- (c) "**Tax Deduction**" means a deduction or withholding for or on account of Tax from a payment under a Finance Document, other than a FATCA Deduction.

- (d) “**Tax Payment**” means either the increase in a payment made by an Obligor to a Finance Party under Clause 12.2 (*Tax gross-up*) or a payment under Clause 12.3 (*Tax indemnity*).
- (e) Unless a contrary indication appears, in this Clause 12 a reference to “determines” or “determined” means a determination made in the absolute discretion of the person making the determination.

## 12.2 **Tax gross-up**

Each Obligor shall (and shall procure that each other Obligor which is a Subsidiary of that Obligor shall) make all payments to be made by it under any Finance Documents without any Tax Deduction, unless a Tax Deduction is required by law, subject as follows:

- (a) an Obligor shall promptly upon becoming aware that it or any other Obligor must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Agent accordingly. Similarly, a Lender shall notify the Agent on becoming so aware in respect of a payment payable to that Lender. If the Agent receives such notification from a Lender it shall notify the Borrower and any such other Obligor;
- (b) if a Tax Deduction is required by law to be made by the Borrower or any other Obligor, the amount of the payment due from the Borrower or that other Obligor shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required;
- (c) if any Obligor is required to make a Tax Deduction, that Obligor shall (and shall procure that such other Obligor which is a Subsidiary of that Obligor shall) make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law;
- (d) within thirty (30) days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Obligor making that Tax Deduction shall (and shall procure that such other Obligor which is a Subsidiary of that Obligor shall) deliver to the Agent for the Finance Party entitled to the payment evidence reasonably satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

## 12.3 **Tax indemnity**

- (a) The Borrower shall (within three (3) Business Days of demand by the Agent) pay to a Protected Party an amount equal to the loss, liability or cost which that Protected Party determines will be or has been (directly or indirectly) suffered for or on account of Tax by that Protected Party in respect of a Finance Document.
- (b) Clause 12.3(a) above shall not apply:
  - (i) with respect to any Tax assessed on a Finance Party:
    - (1) under the law of the jurisdiction in which that Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Finance Party is treated as resident for tax purposes; or

- (2) under the law of the jurisdiction in which that Finance Party's Facility Office is located in respect of amounts received or receivable in that jurisdiction,

if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by that Finance Party; or

- (ii) to the extent a loss, liability or cost:

- (1) is compensated for by an increased payment under Clause 12.2 (*Tax gross-up*); or

- (2) relates to a FATCA Deduction required to be made by a Party.

- (c) A Protected Party making, or intending to make a claim under Clause 12.3(a) above shall promptly notify the Agent of the event which will give, or has given, rise to the claim, following which the Agent shall notify the Borrower.

- (d) A Protected Party shall, on receiving a payment from the Borrower under this Clause 12.3, notify the Agent.

#### 12.4 Tax Credit

If the Borrower or any other Obligor makes a Tax Payment and the relevant Finance Party determines that:

- (a) a Tax Credit is attributable to an increased payment of which that Tax Payment forms part, to that Tax Payment or to a Tax Deduction in consequence of which that Tax Payment was required; and

- (b) that Finance Party has obtained and utilised that Tax Credit, that Finance Party shall pay an amount to the Borrower or to that other Obligor which that Finance Party determines will leave it (after that payment) in the same after-Tax position as it would have been in had the Tax Payment not been made by the Borrower or that other Obligor.

#### 12.5 Stamp taxes

The Borrower shall pay and, within three (3) Business Days of demand, indemnify each Finance Party against any cost, loss or liability which that Finance Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document.

#### 12.6 VAT

- (a) All amounts expressed to be payable under a Finance Document by any Party or any Obligor to a Finance Party which (in whole or in part) constitute the consideration for any supply for VAT purposes are deemed to be exclusive of any VAT which is chargeable on that supply, and accordingly, subject to Clause 12.6(b) below, if VAT is or becomes chargeable on any supply made by any Finance Party to any Party or any Obligor under a Finance Document and such Finance Party is required to account to the relevant tax authority for the VAT, that Party or Obligor must pay to such Finance Party (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of the VAT (and such Finance Party must promptly provide an appropriate VAT invoice to the Borrower).



- (b) If VAT is or becomes chargeable on any supply made by any Finance Party (the “**Supplier**”) to any other Finance Party (the “**Recipient**”) under a Finance Document, and any Party other than the Recipient (the “**Relevant Party**”) is required by the terms of any Finance Document to pay an amount equal to the consideration for that supply to the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):
- (i) (where the Supplier is the person required to account to the relevant tax authority for the VAT) the Relevant Party must also pay to the Supplier (at the same time as paying that amount) an additional amount equal to the amount of the VAT. The Recipient must (where this Clause 12.6(b)(i) applies) promptly pay to the Relevant Party an amount equal to any credit or repayment the Recipient receives from the relevant tax authority which the Recipient reasonably determines relates to the VAT chargeable on that supply; and
  - (ii) (where the Recipient is the person required to account to the relevant tax authority for the VAT) the Relevant Party must promptly, following demand from the Recipient, pay to the Recipient an amount equal to the VAT chargeable on that supply but only to the extent that the Recipient reasonably determines that it is not entitled to credit or repayment from the relevant tax authority in respect of that VAT.
- (c) Where a Finance Document requires any Party to reimburse or indemnify a Finance Party for any cost or expense, that Party shall reimburse or indemnify (as the case may be) such Finance Party for the full amount of such cost or expense, including such part thereof as represents VAT, save to the extent that such Finance Party reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority.
- (d) Any reference in this Clause 12.6 to any Party shall, at any time when such Party is treated as a member of a group for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the representative member of such group at such time (the term “representative member” to have the same meaning as in the Value Added Tax Act 1994).
- (e) In relation to any supply made by a Finance Party to any Party under a Finance Document, if reasonably requested by such Finance Party, that Party must promptly provide such Finance Party with details of that Party’s VAT registration and such other information as is reasonably requested in connection with such Finance Party’s VAT reporting requirements in relation to such supply.

#### 12.7 **FATCA information**

- (a) Subject to Clause 12.7(c) below, each Party shall, within ten (10) Business Days of a reasonable request by another Party:
- (i) confirm to that other Party whether it is:
    - (1) a FATCA Exempt Party; or
    - (2) not a FATCA Exempt Party;
  - (ii) supply to that other Party such forms, documentation and other information relating to its status under FATCA as that other Party reasonably requests for the purposes of that other Party’s compliance with FATCA; and

- (iii) supply to that other Party such forms, documentation and other information relating to its status as that other Party reasonably requests for the purposes of that other Party's compliance with any other law, regulation, or exchange of information regime.
- (b) If a Party confirms to another Party pursuant to Clause 12.7(a)(i)(1) above that it is a FATCA Exempt Party and it subsequently becomes aware that it is not or has ceased to be a FATCA Exempt Party, that Party shall notify that other Party reasonably promptly.
- (c) Clause 12.7(a) above shall not oblige any Finance Party to do anything, and Clause 12.7(a)(iii) shall not oblige any other Party to do anything, which would or might in its reasonable opinion constitute a breach of:
  - (i) any law or regulation;
  - (ii) any fiduciary duty; or
  - (iii) any duty of confidentiality.
- (d) If a Party fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with Clause 12.7(a)(i) or 12.7(a)(ii) above (including, for the avoidance of doubt, where Clause 12.7(c) applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.
- (e) If an Obligor is a US Tax Obligor or the Agent reasonably believes that its obligations under FATCA or any other applicable law or regulation require it, each Lender shall, within ten (10) Business Days of:
  - (i) where an Obligor is a US Tax Obligor and the relevant Lender is an Original Lender, the date of this Agreement;
  - (ii) where an Obligor is a US Tax Obligor on a Transfer Date and the relevant Lender is a New Lender or an Increase Lender, the relevant Transfer Date; or
  - (iii) where an Obligor is not a US Tax Obligor, the date of a request from the Agent,supply to the Agent:
  - (1) a withholding certificate on Form W-8 or Form W-9 or any other relevant form; or
  - (2) any withholding statement or other document, authorisation or waiver as the Agent may require to certify or establish the status of such Lender under FATCA or that other law or regulation.
- (f) The Agent shall provide any withholding certificate, withholding statement, document, authorisation or waiver it receives from a Lender pursuant to Clause 12.7(e) above to the Borrower.
- (g) If any withholding certificate, withholding statement, document, authorisation or waiver provided to the Agent by a Lender pursuant to Clause 12.7(e) is or becomes

materially inaccurate or incomplete, that Lender shall promptly update it and provide such updated withholding certificate, withholding statement, document, authorisation or waiver to the Agent unless it is unlawful for the Lender to do so (in which case the Lender shall promptly notify the Agent). The Agent shall provide any such updated withholding certificate, withholding statement, document, authorisation or waiver to the Borrower.

The Agent may rely on any withholding certificate, withholding statement, document, authorisation or waiver it receives from a Lender pursuant to Clause 12.7(e) or 12.7(g) without further verification. The Agent shall not be liable for any action taken by it under or in connection with Clause 12.7(e), 12.7(f) or 12.7(g).

#### 12.8 **FATCA Deduction**

- (a) Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.
- (b) Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction), notify the Party to whom it is making the payment and, in addition, shall notify the Borrower and the Agent and the Agent shall notify the other Finance Parties.

#### 13. **Increased costs**

##### 13.1 **Increased costs**

- (a) Subject to Clause 13.3 (*Exceptions*) the Borrower shall, within three (3) Business Days of a demand by the Agent, pay to the Agent for the account of a Finance Party the amount of any Increased Costs incurred by that Finance Party or any of its Affiliates as a result of:
  - (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation; or
  - (ii) compliance with any law or regulation made after the date of this Agreement.
- (b) In this Agreement “**Increased Costs**” means:
  - (i) a reduction in the rate of return from the Loan or on a Finance Party’s (or its Affiliate’s) overall capital;
  - (ii) an additional or increased cost; or
  - (iii) a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by a Finance Party or any of its Affiliates to the extent that it is attributable to that Finance Party having entered into its Commitment or funding or performing its obligations under any Finance Document.

- (c) In this Agreement “**Basel III**” means:
- (i) the agreements on capital requirements, a leverage ratio and liquidity standards contained in “Basel III: A global regulatory framework for more resilient banks and banking systems”, “Basel III: International framework for liquidity risk measurement, standards and monitoring” and “Guidance for national authorities operating the countercyclical capital buffer” published by the Basel Committee on Banking Supervision in December 2010, each as amended, supplemented or restated;
  - (ii) the rules for global systemically important banks contained in “Global systemically important banks: assessment methodology and the additional loss absorbency requirement — Rules text” published by the Basel Committee on Banking Supervision in November 2011, as amended, supplemented or restated; and
  - (iii) any further guidance or standards published by the Basel Committee on Banking Supervision relating to “Basel III”.
- (d) In this Agreement, “**CRD IV**” means:
- (i) Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending regulation (EU) No. 648/2012;
  - (ii) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC; and
  - (iii) any other law or regulation which implements Basel III.
- (e) In this Agreement “**Dodd Frank**” means the Dodd-Frank Wall Street Reform and Consumer Protection Act of the U.S.A. and all requests, rules, guidelines or directives thereunder or issued in connection therewith.

### 13.2 **Increased cost claims**

- (a) A Finance Party intending to make a claim pursuant to Clause 13.1 (*Increased costs*) shall notify the Agent of the event giving rise to the claim, following which the Agent shall promptly notify the Borrower.
- (b) Each Finance Party shall, as soon as practicable after a demand by the Agent, provide a certificate confirming the amount of its Increased Costs.

### 13.3 **Exceptions**

- (a) Clause 13.1 (*Increased costs*) does not apply to the extent any Increased Cost is:
  - (i) attributable to a Tax Deduction required by law to be made by an Obligor;
  - (ii) attributable to a FATCA Deduction required to be made by a Party;
  - (iii) compensated for by Clause 12.3 (*Tax indemnity*) (or would have been compensated for under Clause 12.3 (*Tax indemnity*) but was not so

compensated solely because any of the exclusions in Clause 12.3 (*Tax indemnity*) applied);

- (iv) attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation;
- (v) attributable to the implementation or application of or compliance with the “International Convergence of Capital Measurement and Capital Standards, a Revised Framework” published by the Basel Committee on Banking Supervision in June 2004 in the form existing on the date of this Agreement (but excluding any amendment arising out of Basel III) (“**Basel II**”) or any other law or regulation which implements Basel II (whether such implementation, application or compliance is by a government, regulator, Finance Party or any of its Affiliates); or
- (vi) attributable to a bank levy or similar charge.

(b) In this Clause 13.3, a reference to a “**Tax Deduction**” has the same meaning given to the term in Clause 12.1 (*Definitions*).

#### 14. **Other indemnities**

##### 14.1 **Currency indemnity**

(a) If any sum due from an Obligor under the Finance Documents (a “**Sum**”), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the “**First Currency**”) in which that Sum is payable into another currency (the “**Second Currency**”) for the purpose of:

- (i) making or filing a claim or proof against that Obligor; or
- (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

that Obligor shall as an independent obligation, within three (3) Business Days of demand, indemnify each Finance Party to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

(b) Each Obligor waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

##### 14.2 **Other indemnities**

(a) Each of the Borrower, the Parent, the Ultimate Parent and each Vessel Owner shall jointly and severally, within three (3) Business Days of demand, indemnify each Finance Party against any cost, loss or liability incurred by that Finance Party as a result of:

- (i) the occurrence of any Event of Default;

- (ii) a failure by an Obligor to pay any amount due under a Finance Document on its due date, including without limitation, any cost, loss or liability arising as a result of Clause 32 (*Sharing among the Finance Parties*);
  - (iii) funding, or making arrangements to fund, its participation in a Tranche requested by the Borrower in a Utilisation Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by that Finance Party alone); or
  - (iv) the Loan (or part of the Loan) not being prepaid in accordance with a notice of prepayment given by a Borrower.
- (b) Each of the Borrower, the Parent, the Ultimate Parent and each Vessel Owner shall jointly and severally, on demand, indemnify each Finance Party, each Affiliate of a Finance Party and each officer or employee of a Finance Party or its Affiliate (each such person for the purposes of this Clause 14.2 (an “**Indemnified Person**”), against any cost, loss or liability incurred by that Indemnified Person pursuant to or in connection with any litigation, arbitration or administrative proceedings or regulatory enquiry, in connection with or arising out of the entry into and the transactions contemplated by the Finance Documents, having the benefit of any Security constituted by the Finance Documents or which relates to the condition or operation of, or any incident occurring in relation to, any Vessel unless such cost, loss or liability is caused by the gross negligence or wilful misconduct of that Indemnified Person.
- (c) Without limiting, but subject to any limitations set out in paragraph (b) above, the indemnity in paragraph (b) above shall cover any cost, loss or liability incurred by each Indemnified Person in any jurisdiction:
- (i) arising or asserted under or in connection with any law relating to safety at sea, the ISM Code, any Environmental Law or any Sanctions; or
  - (ii) in connection with any Environmental Claim.
- (d) Any Affiliate or any officer or employee of a Finance Party or of any of its Affiliates may rely on this Clause subject to Clause 1.3 (*Third Party Rights*) and the provisions of the Third Parties Act.

#### 14.3 Indemnity to the Agent

The Borrower, the Parent, the Ultimate Parent and each Vessel Owner jointly and severally shall promptly indemnify the Agent against:

- (a) any cost, loss or liability incurred by the Agent (acting reasonably) as a result of:
  - (i) investigating any event which it reasonably believes is a Default; or
  - (ii) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised; or
  - (iii) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under this Agreement; and
- (b) any cost, loss or liability (including, without limitation, for negligence or any other category of liability whatsoever) incurred by the Agent in acting as Agent under the Finance Documents.

#### 14.4 Indemnity to the Security Agent

- (a) The Borrower, the Parent, the Ultimate Parent and each Vessel Owner jointly and severally shall promptly indemnify the Security Agent and every Receiver and Delegate against any cost, loss or liability incurred by any of them as a result of:
- (i) any failure by an Obligor to comply with its obligations under Clause 16 (*Costs and expenses*);
  - (ii) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;
  - (iii) the taking, holding, protection or enforcement of the Transaction Security;
  - (iv) the exercise of any of the rights, powers, discretions, authorities and remedies vested in the Security Agent and each Receiver and Delegate by the Finance Documents or by law;
  - (v) any default by any Obligor in the performance of any of the obligations expressed to be assumed by it in the Finance Documents;
  - (vi) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under this Agreement; or
  - (vii) acting as Security Agent, Receiver or Delegate under the Finance Documents or which otherwise relates to any of the Security Property (otherwise, in each case, than by reason of the relevant Security Agent's, Receiver's or Delegate's gross negligence or wilful misconduct).
- (b) The Security Agent and every Receiver and Delegate may, in priority to any payment to the Finance Parties, indemnify itself out of the Security Property in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this Clause 14.4(b) and shall have a lien on the Transaction Security and the proceeds of the enforcement of the Transaction Security for all moneys payable to it.

#### 14.5 Indemnity Survival

The indemnities in this Agreement shall survive repayment of the Loan.

#### 14.6 Priority of Indemnity

The Security Agent and every Receiver and Delegate may, in priority to any payment to the Secured Parties, indemnify itself out of the Security Property in respect of, and pay and retain, all sums necessary to give effect to the indemnity in Clause 14.4 (*Indemnity to the Security Agent*) and shall have a lien on the Transaction Security and the proceeds of enforcement of the Transaction Security for all moneys payable to it.

#### 15. Mitigation by the Lenders

##### 15.1 Mitigation

- (a) Each Finance Party shall, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 7.1 (*Illegality*), Clause 12 (*Tax gross up and indemnities*) or Clause 13 (*Increased costs*)

including (but not limited to) transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office.

- (b) Paragraph (a) above does not in any way limit the obligations of any Obligor under the Finance Documents.

**15.2 Limitation of liability**

- (a) The Transaction Obligors shall, within three (3) Business Days of demand, indemnify each Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of steps taken by it under Clause 15.1 (*Mitigation*).
- (b) A Finance Party is not obliged to take any steps under Clause 15.1 (*Mitigation*) if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.

**16. Costs and expenses**

**16.1 Transaction expenses**

The Borrower, the Parent, the Ultimate Parent and each Vessel Owner shall jointly and severally, within five (5) Business Days of demand, pay to each Finance Party the amount of all costs and expenses (including but not limited to legal fees) reasonably incurred by any of them (and, in the case of the Security Agent, any Receiver or Delegate) in connection with the negotiation, preparation, printing, execution, syndication and perfection of:

- (a) this Agreement and any other documents referred to in this Agreement or in a Security Document;
- (b) the Transaction Security;
- (c) any other Finance Documents executed after the date of this Agreement;
- (d) any other document which may at any time be required by a Finance Party to give effect to any Finance Document or which a Finance Party is entitled to call for or obtain under any Finance Document (including, for the avoidance of doubt, any Valuation or survey and inspection costs except where a Finance Party is expressly required under the terms of the Finance Documents to pay any such amount without reimbursement from any Obligor); and
- (e) any discharge, release or reassignment of any of the Finance Documents.

**16.2 Amendment costs**

If (a) an Obligor requests an amendment, waiver or consent or (b) an amendment is required pursuant to Clause 33.10 (*Change of currency*), the Borrower shall, within five (5) Business Days of demand, reimburse each Finance Party for the amount of all costs and expenses (including legal fees) reasonably incurred by that Finance Party (and, in the case of the Security Agent, any Receiver or Delegate) in responding to, evaluating, negotiating or complying with that request or requirement.

**16.3 Enforcement and preservation costs**

The Borrower shall, within five (5) Business Days of demand, pay to each Finance Party the amount of all costs and expenses (including legal fees) incurred by that Finance Party in connection with the enforcement of, or the preservation of any rights under, any Finance



Document or the Transaction Security and with any proceedings instituted by or against that Finance Party as a consequence of it entering into a Finance Document, taking or holding the Transaction Security, or enforcing those rights.

#### 16.4 **Other costs**

The Borrower shall, within five (5) Business Days of demand, pay to each Finance Party and each other Secured Party the amount of all sums which that Finance Party or other Secured Party may pay or become actually liable for on account of the Borrower or a Vessel Owner in connection with a Vessel (whether alone or jointly or jointly and severally with any other person) including (without limitation) all sums which that Finance Party or other Secured Party may pay or guarantees which it may give in respect of the Insurances, any expenses incurred by that Finance Party or other Secured Party in connection with the maintenance or repair of a Vessel or in discharging any lien, bond or other claim relating in any way to a Vessel, and any sums which that Finance Party or other Secured Party may pay or guarantees which it may give to procure the release of a Vessel from arrest or detention.

#### 17. **Guarantee and indemnity**

##### 17.1 **Guarantee and indemnity**

Each of the Guarantors irrevocably and unconditionally:

- (a) guarantees to each Finance Party punctual performance by each other Obligor of all that Obligor's obligations under the Finance Documents;
- (b) undertakes with each Finance Party that whenever another Obligor does not pay any amount when due under or in connection with any Finance Document, the Guarantors shall immediately on demand pay that amount as if they were the principal obligor; and
- (c) agrees with each Finance Party that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify that Finance Party immediately on demand against any cost, loss or liability it incurs as a result of an Obligor (other than the Guarantors) not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under any Finance Document on the date when it would have been due. The amount payable by the Guarantors under this indemnity will not exceed the amount it would have had to pay under this Clause 17 if the amount claimed had been recoverable on the basis of a guarantee.

##### 17.2 **Continuing guarantee**

This guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by any Obligor under the Finance Documents, regardless of any intermediate payment or discharge in whole or in part.

##### 17.3 **Reinstatement**

If any discharge, release or arrangement (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is made by a Finance Party in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of the Guarantors under this Clause 17 will continue or be reinstated as if the discharge, release or arrangement had not occurred.

#### 17.4 **Waiver of defences**

The obligations of the Guarantors under this Clause 17 will not be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under this Clause 17 (without limitation and whether or not known to it or any Finance Party) including:

- (a) any time, waiver or consent granted to, or composition with, any Obligor or other person;
- (b) the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Finance Document or any other document or security including without limitation any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security; or
- (g) any insolvency or similar proceedings.

#### 17.5 **Guarantors' Intent**

Without prejudice to the generality of Clause 17.4 (*Waiver of defences*), each of the Guarantors expressly confirms that it intends that this guarantee shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following: business acquisitions of any nature; increasing working capital, enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities, refinancing any other indebtedness; making facilities available to new borrowers, any other variation or extension of the purposes for which any such facility or amount might be made available from time to time, and any fees, costs and/or expenses associated with any of the foregoing.

#### 17.6 **Immediate recourse**

Each of the Guarantors waives any right it may have of first requiring any Finance Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from it or commencing proceedings under this Clause 17. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

#### 17.7 Appropriations

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full, each Finance Party (or any trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by that Finance Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Guarantors shall be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any moneys received from the Guarantors or on account of the Guarantors' liability under this Clause 17.

#### 17.8 Deferral of Guarantors' rights

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full and unless the Agent otherwise directs, the Guarantors will not exercise any rights which either of them may have by reason of performance by it of its obligations under the Finance Documents or by reason of any amount being payable, or liability arising, under this Clause 17:

- (a) to be indemnified by an Obligor;
- (b) to claim any contribution from any other guarantor of any Obligor's obligations under the Finance Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Finance Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Finance Party;
- (d) to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which any Obligor has given a guarantee, undertaking or indemnity under Clause 17.1 (*Guarantee and indemnity*);
- (e) to exercise any right of set-off against any Obligor; and/or
- (f) to claim or prove as a creditor of any Obligor in competition with any Finance Party.

If any Guarantor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Finance Parties by the Obligors under or in connection with the Finance Documents to be repaid in full on trust for the Finance Parties and shall promptly pay or transfer the same to the Agent or as the Agent may direct for application in accordance with Clause 33 (*Payment mechanics*).

#### 17.9 Additional security

This guarantee and any other Security given by the Guarantors is in addition to and is not in any way prejudiced by, and shall not prejudice, any other guarantee or Security or any other right of recourse now or subsequently held by any Finance Party, or any right of set-off or netting or right to combine accounts in connection with the Finance Documents.

18. **Representations and warranties**

18.1 **Representations**

Each Obligor makes the representations and warranties set out in this Clause 18 to each Finance Party and the times specified in Clause 18.32 (*Times when representations are made*).

18.2 **Status**

Each of the Obligors:

- (a) is a corporation or a limited liability company, duly incorporated or formed and validly existing under the law of its jurisdiction of incorporation or formation; and
- (b) has the power to own its assets and carry on its business as it is being conducted.

18.3 **Binding obligations**

Subject to the Legal Reservations:

- (a) the obligations expressed to be assumed by each of the Obligors in each of the Relevant Documents to which it is a party are legal, valid, binding and enforceable obligations; and
- (b) (without limiting the generality of paragraph (a)), each Security Document to which it is a party creates or will create upon execution and delivery and, where applicable, registration, the security interests that that Security Document purports to create and those security interests are, or will be when created or intended to be created, valid and effective.

18.4 **Non-conflict with other obligations**

The entry into and performance by each of the Obligors of, and the transactions contemplated by, the Relevant Documents do not conflict with:

- (a) any law or regulation applicable to such Obligor;
- (b) the constitutional documents of such Obligor; or
- (c) any agreement or instrument binding upon such Obligor or any of such Obligor's assets or constitute a default or termination event (however described) under any such agreement or instrument.

18.5 **Power and authority**

- (a) Each of the Obligors has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Relevant Documents to which it is or will be a party and the transactions contemplated by those Relevant Documents.
- (b) No limit on the powers of any Obligor will be exceeded as a result of the borrowing, granting of security or giving of guarantees or indemnities contemplated by the Relevant Documents to which it is a party.

**18.6 Validity and admissibility in evidence**

All authorisations required or desirable:

- (a) to enable each of the Obligors lawfully to enter into, exercise its rights and comply with its obligations in the Relevant Documents to which it is a party; and
- (b) to make the Relevant Documents to which any Obligor is a party admissible in evidence in its Relevant Jurisdictions,

have been obtained or effected and are in full force and effect, with the exception only of the registrations referred to in Schedule 2 Part VI (*Conditions Subsequent*).

**18.7 Governing law and enforcement**

- (a) Subject to the Legal Reservations, the choice of governing law of any Finance Document will be recognised and enforced in the Relevant Jurisdictions of each relevant Transaction Obligor.
- (b) Any judgment obtained in relation to any Finance Document in the jurisdiction of the governing law of that Finance Document will, subject to the Legal Reservations, be recognised and enforced in the Relevant Jurisdictions of each relevant Transaction Obligor.

**18.8 Insolvency**

No corporate action, legal proceeding or other procedure or step described in Clause 26.7 (*Insolvency proceedings*) or creditors' process described in Clause 26.8 (*Creditors' process*) has been taken or, to the knowledge of any Transaction Obligor, threatened in relation to that Transaction Obligor; and none of the circumstances described in Clause 26.6 (*Insolvency*) applies to a Transaction Obligor.

**18.9 No filing or stamp taxes**

Under the laws of the Relevant Jurisdictions of each relevant Transaction Obligor it is not necessary that the Finance Documents be filed, recorded or enrolled with any court or other authority in any of those jurisdictions or that any stamp, registration, notarial or similar tax or fees be paid on or in relation to the Finance Documents or the transactions contemplated by the Finance Documents except:

- (a) any filing, recording or any tax or fee payable in relation to any Finance Document which is referred to in any legal opinion referred to in Clause 4 (*Conditions of Utilisation*); and
- (b) registration of each Mortgage at the registry of the Approved Flag where title to the relevant Vessel is registered in the ownership of the relevant Vessel Owner.

**18.10 No default**

- (a) No Event of Default is continuing or is reasonably likely to result from the advance of a Utilisation or the entry into, the performance of, or any transaction contemplated by, any of the Relevant Documents.
- (b) No other event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination of any of the foregoing, would constitute) a default or termination event

(howsoever described) under any other agreement or instrument which is binding on any of the Transaction Obligors or to which its assets are subject and which has or is reasonably likely to have a Material Adverse Effect.

**18.11 No misleading information**

- (a) All information supplied by it or at the request or direction of an Obligor on its behalf to any Finance Party in connection with the Relevant Documents was true and accurate in all material respects as at the date it was provided or as at any date at which it was stated to be given.
- (b) Any financial projections contained in the information referred to in paragraph (a) above have been prepared as at their date on the basis of recent historical information and on the basis of reasonable assumptions as of that same date.
- (c) It has not omitted to supply any information which, if disclosed, would make the information referred to in paragraph (a) above untrue or misleading in any material respect.
- (d) Nothing has occurred since the date of the information referred to in paragraph (a) above which, if disclosed, would make that information untrue or misleading in any material respect as at the same date.

**18.12 Financial statements**

- (a) The Original Financial Statements were prepared in accordance with GAAP consistently applied.
- (b) The unaudited Original Financial Statements fairly present the Ultimate Parent's and the Group's financial condition as at the end of the relevant financial quarter and results of operations during the relevant financial quarter.
- (c) The audited Original Financial Statements give a true and fair view of the Ultimate Parent's and the Group's financial condition as at the end of the relevant financial year and results of operations during the relevant financial year.
- (d) From the date of this Agreement until the date of delivery of the audited financial statements for the financial year ending 31 December 2018 pursuant to Clauses 19.1(a) and 19.1(c) (*Financial statements*), there has been no material adverse change in any Transaction Obligor's assets, business or financial condition since the date of the Original Financial Statements.
- (e) Each Transaction Obligor's most recent financial statements delivered pursuant to Clause 19.1 (*Financial statements*):
  - (i) have been prepared in accordance with GAAP as applied to the Original Financial Statements; and
  - (ii) give a true and fair view of (if audited) or fairly present (if unaudited) its consolidated financial condition as at the end of, and consolidated results of operations for, the period to which they relate.
- (f) Since the date of the most recent financial statements delivered pursuant to Clauses 19.1(a) and 19.1(c) (*Financial statements*) there has been no material adverse change in the business, assets or financial condition of any of the Transaction Obligors or the Group.

**18.13 No proceedings pending or threatened**

No litigation, arbitration or administrative or investigative proceedings of or before any court, arbitral body, authority or agency which, if adversely determined, might reasonably be expected to have a Material Adverse Effect have (to its knowledge and belief, following due and careful enquiry) been started or threatened against any of the Obligors.

**18.14 Taxes and VAT**

- (a) It is not required to make any Tax deduction from any payment made by it under any of the Finance Documents.
- (b) It is not a member of a value added tax group.

**18.15 No breach of laws**

None of the Obligors has breached any law or regulation which breach has or is reasonably likely to have a Material Adverse Effect.

**18.16 Environmental laws**

- (a) Each of the Obligors is in compliance with Clause 21.3 (*Environmental compliance*) and to the best of its knowledge and belief (having made due and careful enquiry) no circumstances have occurred which would prevent such compliance in a manner or to an extent which has or is reasonably likely to have a Material Adverse Effect.
- (b) No Environmental Claim has been commenced or (to the best of its knowledge and belief (having made due and careful enquiry)) is threatened against any of the Obligors where that claim has or is reasonably likely to have a Material Adverse Effect.

**18.17 Taxation**

- (a) None of the Obligors is materially overdue in the filing of any Tax returns or is overdue in the payment of any amount in respect of Tax to an extent which has or is reasonably likely to have a Material Adverse Effect.
- (b) No claims or investigations are being, or are reasonably likely to be, made or conducted against any of the Obligors with respect to Taxes.
- (c) Each of the Vessel Owners is resident for Tax purposes only in its Original Jurisdiction.

**18.18 Anti-corruption law**

Each of the Obligors and each Affiliate of any of them has conducted its businesses in compliance with applicable anti-corruption laws and has instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

**18.19 No Security or Financial Indebtedness**

- (a) No Security (other than Permitted Security) exists over all or any of the present or future assets of any Transaction Obligor in breach of this Agreement.

- (b) No Transaction Obligor (other than the Ultimate Parent) has any Financial Indebtedness outstanding other than the Permitted Intercompany Debt or as otherwise permitted by this Agreement.

**18.20 Pari passu ranking**

The payment obligations of each of the Transaction Obligors under the Finance Documents to which it is a party rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

**18.21 Ranking of Security**

The security conferred by each Security Document constitutes a first priority security interest of the type described, over the assets referred to, in that Security Document and those assets are not subject to any prior or *pari passu* Security except Permitted Security.

**18.22 Centre of main interests and establishments**

For the purposes of Regulation (EU) No. 2015/848 of 20 May 2015 on insolvency proceedings (recast) (the "**Regulation**"), the centre of main interest of each of the Obligors (as that term is used in Article 3(1) of the Regulation) is situated in that Obligor's Original Jurisdiction and it has no "establishment" (as that term is used in Article 2(10) of the Regulation) in any other jurisdiction.

**18.23 No adverse consequences**

- (a) It is not necessary under the laws of the Relevant Jurisdictions of any of the Transaction Obligors:
- (i) in order to enable any Finance Party to enforce its rights under any Finance Document; or
  - (ii) by reason of the execution of any Finance Document or the performance by it of its obligations under any Finance Document,
- that any Finance Party should be licensed, qualified or otherwise entitled to carry on business in any of the Relevant Jurisdictions of any of the Transaction Obligors.
- (b) No Finance Party is or will be deemed to be resident, domiciled or carrying on business in any of the Relevant Jurisdictions of any of the Transaction Obligors by reason only of the execution, performance and/or enforcement of any Finance Document.

**18.24 Completeness of Relevant Documents**

The copies of any documents or evidence listed in Schedule 2 (*Conditions Precedent*) provided or to be provided by the Borrower to the Agent in accordance with Clause 4 (*Conditions of Utilisation*) are, or will be, true, accurate and complete copies of the originals.

**18.25 No Immunity**

No Transaction Obligor or any of its assets is immune to any legal action or proceeding.



#### 18.26 Money laundering

Any borrowing by the Borrower under this Agreement, and the performance of its obligations under this Agreement and under the other Finance Documents, will be for its own account and will not involve any breach by it of any law or regulatory measure relating to “money laundering” as defined in Article 1 of the Directive (2005/EC/60) of the European Parliament and of the Council of the European Communities.

#### 18.27 Sanctions

As regards Sanctions:

- (a) None of the Obligors or any of their respective direct or indirect shareholders (excluding any direct or indirect shareholder of the Ultimate Parent which individually and/or with any persons with whom it is acting in concert is not a controlling direct or indirect shareholder of the Ultimate Parent) or any director, officer, agent, employee or person acting on behalf of any of them is a Restricted Person or is owned or controlled by, or acting directly or indirectly on behalf of or for the benefit of, a Restricted Person and none of such persons owns or controls a Restricted Person.
- (b) No proceeds of the Loan shall be made available, directly or indirectly, to or for the benefit of a Restricted Person in violation of applicable Sanctions laws, or otherwise shall be, directly or indirectly, applied in a manner or for a purpose prohibited by Sanctions.
- (c) The Obligors shall not use any revenue or benefit derived from any activity or dealing with a Restricted Person in breach of Sanctions in discharging any obligation due or owing to the Finance Parties.
- (d) Each of the Obligors and each Affiliate of any of them is in compliance with Sanctions.
- (e) Each Obligor shall, to the extent permitted by law, promptly upon becoming aware of them supply to the Agent details of any claim, action, suit, proceedings or formal investigation against it brought by any Sanctions Authority, with respect to the activities of an Obligor (excluding any direct or indirect shareholder of the Ultimate Parent which individually and/or with any persons with whom it is acting in concert is not a controlling direct or indirect shareholder of the Ultimate Parent).

#### 18.28 Valuation

- (a) All information supplied by it or on its behalf to the Agent for the purposes of each Valuation was true and accurate as at its date or (if appropriate) as at the date (if any) at which it is stated to be given.
- (b) It has not omitted to supply any information to the Agent in accordance with sub-paragraph (a) above which, if disclosed, would materially and adversely affect a Valuation or the Market Value of a Vessel.

#### 18.29 No other business

- (a) None of the Parent, the Borrower or any Vessel Owner has traded or carried on any business since the date of its incorporation except for:
  - (i) in the case of the Parent, the ownership of the Borrower;

- (ii) in the case of the Borrower, the ownership of each Vessel Owner; and
  - (iii) in the case of each Vessel Owner, the acquisition, ownership and operation of the Vessel owned by it.
- (b) As at the date of this Agreement (or the date of accession of an Additional Owner in the case of any Additional Owner), none of the Parent, the Borrower nor any Vessel Owner is party to any material agreement other than the Relevant Documents or the MOA for the purchase of the Initial Vessel.
- (c) As at the date of this Agreement:
- (i) Parent does not have any Subsidiaries other than the Borrower and the Vessel Owners;
  - (ii) Borrower does not have any Subsidiaries other than the Vessel Owners and (to the extent they have not acceded to this Agreement as Vessel Owners) the Dormant Companies; and
  - (iii) no Vessel Owner has any Subsidiaries.
- (d) None of the Parent, the Borrower or any Vessel Owner:
- (i) has, or has had, any employees; and
  - (ii) has any obligation in respect of any retirement benefit or occupational pension scheme.

**18.30 Ownership**

- (a) The Parent's entire issued share capital is directly legally and beneficially owned and controlled by the Ultimate Parent.
- (b) The Borrower's entire issued share capital is directly legally and beneficially owned and controlled by the Parent.
- (c) Each Vessel Owner's entire issued share capital is directly legally and beneficially owned and controlled by the Borrower.
- (d) The shares in the capital of each Transaction Obligor (other than the Ultimate Parent) are fully paid and are not subject to any option to purchase or similar rights.
- (e) Each Vessel Owner is the sole legal and beneficial owner of the relevant Vessel, its Earnings and its Insurances.
- (f) Each Transaction Obligor is the sole legal and beneficial owner of any other asset that is the subject of any Transaction Security created or intended to be created by it.

**18.31 Vessel**

- (a) From the first Utilisation Date in the case of the Initial Vessel or the date of its acquisition in the case of any Additional Vessel, that Vessel is:
  - (i) either permanently registered in the name of the relevant Vessel Owner under the relevant Approved Flag or will be permanently registered within 90 days of such date;

- (ii) free from Security (other than Permitted Security);
  - (iii) operationally seaworthy and in every way fit for service;
  - (iv) classed in accordance with the relevant Classification free of all conditions and recommendations of the relevant Classification Society (except as disclosed to and approved by the Agent prior to the Utilisation Date); and
  - (v) insured in the manner required by the Finance Documents.
- (b) To the best of its knowledge:
- (i) no material breach of any law or regulation is outstanding which might have a Material Adverse Effect; and
  - (ii) no adverse claim has been made by any person in respect of the ownership of that Vessel or any interest in it.

**18.32 Times when representations are made**

- (a) All of the representations and warranties set out in this Clause 18 (other than the representation and warranty set out in Clause 18.31 (*Vessel*)) are deemed to be made on the date of this Agreement, the date of the first Utilisation Request and the first Utilisation Date.
- (b) The Repeating Representations are deemed to be made on the dates of each subsequent Utilisation Request, on each subsequent Utilisation Date and on the first day of each Interest Period.
- (c) The representation and warranty set out in Clause 18.31 (*Vessel*) is deemed to be made on the date when the Mortgage is granted over the relevant Vessel.
- (d) In the case of an Additional Vessel Owner, all of the representations and warranties set out in this Clause 18 (other than the representation and warranty in Clause 18.31 (*Vessel*)) are deemed to be made on the day on which it becomes a Vessel Owner under this Agreement.

**19. Information undertakings**

The undertakings in this Clause 19 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

**19.1 Financial statements**

The Ultimate Parent and the Parent shall supply to the Agent:

- (a) Ultimate Parent's audited consolidated (so as to include the Parent, the Borrower and each Vessel Owner) financial statements for each of its financial years, as soon as the same become available, but in any event within 120 days after the end of each of its financial years;
- (b) Ultimate Parent's unaudited consolidated (so as to include the Parent, the Borrower and each Vessel Owner) financial statements for each Financial Quarter, as soon as the same become available, but in any event within 60 days after the end of each such Financial Quarter;

- (c) Parent's audited consolidated (so as to include the Borrower and each Vessel Owner) financial statements for each of its financial years, as soon as the same become available, but in any event within 120 days after the end of each of its financial years; and
- (d) Parent's unaudited consolidated (so as to include the Borrower and each Vessel Owner) financial statements for each Financial Quarter, as soon as the same become available, but in any event within 60 days after the end of each such Financial Quarter. Such financial statements shall be accompanied by the results of the operations of each Vessel during the relevant Financial Quarter and the daily Operating Costs of each Vessel.

## 19.2 Compliance Certificates

- (a) The Ultimate Parent shall supply to the Agent, within ten (10) Business Days of the end of each Financial Quarter, a Compliance Certificate:
  - (i) confirming compliance with the Minimum Liquidity Amount, together with a statement of the balance of the Minimum Liquidity Account;
  - (ii) setting out the balance of the Dry Docking Reserve Account; and
  - (iii) setting out a statement of Excess Cash as at the date of the relevant Compliance Certificate.
- (b) In addition to paragraph (a) above, the Ultimate Parent shall supply to the Agent, with each set of financial statements delivered pursuant to Clause 19.1 (*Financial statements*), a Compliance Certificate setting out (in reasonable detail) computations as to compliance with Clause 20 (*Financial covenants*).
- (c) The Ultimate Parent shall ensure that each Compliance Certificate delivered pursuant to this Clause 19.2 shall be signed by an authorised officer of the Ultimate Parent.
- (d) Each Obligor shall, if, prior to the delivery of any Compliance Certificate by the relevant Obligor, the relevant Obligor becomes aware that the financial covenants detailed in Clause 20 (*Financial Covenants*) (or any of them) will not be complied with, promptly notify the Agent accordingly.

## 19.3 Requirements as to financial statements

- (a) Each set of financial statements delivered by an Obligor pursuant to Clause 19.1 (*Financial statements*):
  - (i) shall be certified by an authorised officer of that Obligor as giving a true and fair view (in case of annual financial statements), or fairly presenting (in other cases), its financial condition as at the date as at which those financial statements were drawn up; and
  - (ii) shall be prepared using GAAP, accounting practices and financial reference periods consistent with those applied in the preparation of the Original Financial Statements unless, in relation to any set of financial statements, it notifies the Agent that there has been a change in GAAP, the accounting practices or reference periods and its auditors deliver to the Agent:

- (1) a description of any change necessary for those financial statements to reflect the GAAP, accounting practices and reference periods upon which that Obligor's Original Financial Statements were prepared;
  - (2) sufficient information, in form and substance as may be reasonably required by the Agent, to enable the Agent to determine whether Clause 20.1 (*Financial Covenants*) has been complied with and to make an accurate comparison between the financial position indicated in those financial statements and that Obligor's Original Financial Statements; and
  - (3) in the case of annual audited financial statements, not be the subject of any Auditor's opinion that is qualified in any material way.
- (b) Any reference in this Agreement to those financial statements shall be construed as a reference to those financial statements as adjusted to reflect the basis upon which the Original Financial Statements were prepared.
- (c) If the Ultimate Parent notifies the Agent of a change in accordance with paragraph (a)(ii) above, the Ultimate Parent and the Agent shall enter into negotiations in good faith for a period of at least 30 days with a view to agreeing any amendments to this Agreement which are necessary as a result of the change. To the extent practicable, these amendments will be such as to ensure that the change does not result in any material alteration in the commercial effect of the obligations in this Agreement. If any amendments are agreed and executed and all conditions precedent to such amendments taking effect are satisfied, they shall take effect and be binding on each of the parties in accordance with their terms.

#### 19.4 **Budgets and Report on Operating Expenses and G&A Expenses**

- (a) The Transaction Obligors shall:
- (i) supply to the Agent, no later than thirty (30) days prior to the commencement of each calendar year, copies of an annual operating budget of each Vessel Owner (and the Vessel owned by it ) for that calendar year; and
  - (ii) procure that the Approved Commercial Manager shall supply to the Agent, no later than thirty (30) days prior to the commencement of each calendar year, a copy of an annual Operating Expenses and G&A Expenses budget in respect of each Vessel for that calendar year,
- for approval by the Agent (acting on the instructions of the Majority Lenders) and in the form and with such details as the Agent (acting on the instructions of the Majority Lenders) may reasonably require.
- (b) Without prejudice to the foregoing, each annual Operating Expenses and G&A Expenses budget under paragraph (a) (ii) above to be in the form appended to Schedule 11 (*Example Budget*).
- (c) The Borrower, the Parent, the Ultimate Parent and the Vessel Owners shall procure that the Approved Commercial Manager shall, on 10 Business Days' request, supply to the Agent a quarterly performance report for each Vessel for the following Financial Quarter showing the estimated daily Operating Expenses and G&A Expenses for that Vessel, a comparison of the budget for the previous Financial Quarter and actual expenditure in relation to Operating Expenses and G&A Expenses

and, upon the request of the Agent, provide details of trade payables and other liabilities position of each Vessel.

19.5 **Permitted Operating and G&A Expenses**

- (a) The Operating Expenses and G&A Expenses for each Vessel in the period ending 31 December in the year of its acquisition (the “**First Budget Period**”) shall:
  - (i) not exceed a budgeted amount (based on an agreed per day amount for that Vessel from the time it is acquired) which is presented by the Borrower to the Agent and agreed by it in advance of the relevant acquisition (such agreement of the Agent not to be unreasonably withheld or delayed); and
  - (ii) be calculated assuming G&A Expenses (excluding additional fees to be incurred with respect to the audit of the Parent and the Borrower and any management fees to be paid to a third party Approved Commercial Manager in connection with a Vessel (“**Excluded Fees**”)) are not in excess of US\$100,000 per annum for that Vessel (excluding Excluded Fees) less a reduction agreed by the Agent if a third party Approved Commercial Manager has been engaged in connection with that Vessel (provided that in the absence of any approval such reduction may be unilaterally decided by the Agent acting reasonably).
- (b) The permitted amount of Operating Expenses and G&A Expenses for each Vessel for each subsequent calendar year (each a “**Subsequent Budget Period**”) shall be submitted by the Borrower to and approved by the Agent in advance of that calendar year (based on an agreed per day amount for that Vessel which shall not exceed what was permitted in the previous calendar year by more than 3.0% without the prior written consent of the Agent (such consent not to be unreasonably withheld or delayed)).
- (c) Without prejudice to the Transaction Obligors’ obligations under paragraphs (a) and (b) above, the Transaction Obligors shall notify or procure that the Approved Commercial Manager notifies the Agent on a timely basis of any actual or anticipated material increases in the Operating Expenses or G&A Expenses budget with respect to a Vessel.

19.6 **Information: miscellaneous**

The Borrower, the Parent, the Ultimate Parent and the Vessel Owners shall supply to the Agent (in sufficient copies for all the Lenders, if the Agent so requests):

- (a) at the same time as they are dispatched, copies of all documents dispatched by the Borrower, the Parent, the Ultimate Parent or that Vessel Owner to its shareholders generally (or any class of them) or dispatched by the Borrower, the Parent, the Ultimate Parent or that Vessel Owner to its creditors generally (or any class of them);
- (b) promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings (including proceedings related to any alleged or actual breach of the ISM Code or the ISPS Code) which are current, threatened or pending against any Obligor, and which are likely to have a Material Adverse Effect;
- (c) promptly, such further information regarding the financial condition, business and operations of any Transaction Obligor as any Finance Party (through the Agent) may reasonably request, including without limitation cash flow analyses and details of the Operating Expenses of any Vessel, any dividends and/or loans made by the Borrower,

the Parent, the Ultimate Parent and/or Vessel Owner, and annual inspection certificates (including any annual inspection report (if required by the Agent)); and

- (d) promptly on request, such further information regarding the financial condition, assets and operations of any Transaction Obligor (including any requested amplification or explanation of any item in the financial statements, budgets or other material provided by any Transaction Obligor under this Agreement and an up to date copy of its shareholders' register (or equivalent in its Original Jurisdiction)) as any Finance Party through the Agent may reasonably request, except information which is confidential in relation to third parties or the disclosure of which is contrary to law or regulation.

#### 19.7 **Notification of default**

Each Transaction Obligor shall notify the Agent of any Event of Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence (unless that Transaction Obligor is aware that a notification has already been provided by another Obligor).

#### 19.8 **"Know your customer" checks**

- (a) If:
  - (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Agreement;
  - (ii) any change in the status of a Transaction Obligor after the date of this Agreement; or
  - (iii) a proposed assignment or transfer by a Lender of any of its rights and obligations under this Agreement to a party that is not a Lender prior to such assignment or transfer,

obliges the Agent or any Lender (or, in the case of paragraph (iii) above, any prospective new Lender) to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to it, each Transaction Obligor shall promptly upon the request of the Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender) or any Lender (for itself or, in the case of the event described in paragraph (iii) above, on behalf of any prospective new Lender) in order for the Agent, such Lender or, in the case of the event described in paragraph (iii) above (and which is obtainable and may lawfully be disclosed by the relevant Transaction Obligor), any prospective new Lender to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

- (b) Each Lender shall promptly upon the request of the Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself) in order for the Agent to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.
- (c) The Borrower shall, by not less than 10 Business Days' prior written notice to the Agent, notify the Agent (which shall promptly notify the Lenders) of the intention for

an Additional Vessel Owner to accede to this Agreement pursuant to Clause 28 (*Changes to the Obligors*).

- (d) Following the giving of any notice pursuant to paragraph (c) above, if the accession of the relevant Additional Vessel Owner obliges the Agent or any Lender to comply with “know your customer” or similar identification procedures in circumstances where the necessary information is not already available to it, the Borrower shall promptly upon the request of the Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender) or any Lender (for itself or on behalf of any prospective new Lender) in order for the Agent or such Lender or any prospective new Lender to carry out and be satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations pursuant to the accession of the Additional Vessel Owner.

#### 19.9 USA Patriot Act Notice

Each Lender hereby notifies each Transaction Obligor that, pursuant to the requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Pub.: 107-56 (signed into law October 26, 2001) (the “**Patriot Act**”) it is required to obtain, verify, and record information that identifies the Borrower, which information includes the name of the Borrower and other information that will allow such Lender to identify the Borrower in accordance with the Patriot Act, and the Borrower agrees to provide such information from time to time to any Lender.

#### 20. Financial covenants

##### 20.1 Financial covenants

- (a) At each and all times during the Facility Period, the Borrower shall maintain Cash in the Minimum Liquidity Account in an amount of not less than the applicable Minimum Liquidity Amount.
- (b) Upon the acquisition of a Vessel, the Ultimate Parent shall provide an amount to the relevant Vessel Owner of at least US\$250,000 in respect of that Vessel for working capital purposes, such amount to be funded by way of a Fresh Equity Injection or Permitted Intercompany Debt the Ultimate Parent provides to the Parent, to be on-funded to the Borrower and then further on-funded to the relevant Vessel Owner (and to be held in the relevant Vessel Owner’s Earnings Account) by way of Permitted Intercompany Debt (the “**Working Capital Requirement**”).
- (c)
  - (i) The Ultimate Parent shall ensure that, as of each Quarter Date, the Ultimate Parent and its Subsidiaries (excluding the Parent, the Borrower and any Vessel Owner) maintain an amount of unrestricted Cash and Cash Equivalents equal to at least US\$20 million on a consolidated basis (“**Minimum Liquidity Test**”); provided that for the purpose of determining compliance with this Clause 20.1(c)(i), Cash and Cash Equivalents as of each Quarter Date shall be deemed to include contracted charter-hire receivables as of such date, so long as any such unpaid charter-hire receivables are collected within 20 Business Days following such Quarter Date.
  - (ii) If the Ultimate Parent fails to comply with the Minimum Liquidity Test on any Quarter Date, such failure may be cured (and, for the avoidance of doubt, no Default or Event of Default shall occur as a result of such failure) if, within



30 Business Days following such Quarter Date, (1) the Ultimate Parent receives net cash proceeds in exchange for the issuance of the common shares, preference shares or other equity securities of the Ultimate Parent or other cash contribution to the equity of the Ultimate Parent, (2) after adjusting the calculation of the Ultimate Parent's Cash and Cash Equivalents as of such Quarter Date to give effect to the amount of net cash proceeds received, the Issuer would have complied with the Minimum Liquidity Test as of such Quarter Date and (3) the Issuer provides an officer's certificate in form and substance satisfactory to the Agent notifying the Agent of the occurrence of (1) and (2).

The above covenants shall be tested on each Quarter Date and reported to the Agent in each Compliance Certificate to be delivered to the Agent pursuant to Clause 19.2(b) (*Compliance certificates*).

## 20.2 **Most favoured Lenders**

If at any time any other Financial Indebtedness of the Ultimate Parent and/or any of its Subsidiaries shall include any financial covenant in respect of the Ultimate Parent (whether set forth as a covenant, undertaking, event of default, restriction or other such provision) (a "**Financial Covenant**") that would be more beneficial to the Lenders than any analogous provision contained in this Agreement (an "**Additional Financial Covenant**"), then such Additional Financial Covenant shall be deemed automatically incorporated into the terms of this Agreement (an "**MFN Amendment**"). Such MFN Amendment shall be reversed and the financial covenants restored to those that were in effect immediately prior to an MFN Amendment when (i) such other financial indebtedness containing the Additional Financial Covenant is repaid in full other than as a result of or in connection with an actual event of default (howsoever defined); or (ii) the original terms of an Additional Financial Covenant provide that it has ceased to apply.

## 21. **General undertakings**

The undertakings in this Clause 21 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

### 21.1 **Authorisations**

Each Obligor shall promptly:

- (a) obtain, comply with, renew and do all that is necessary to maintain in full force and effect each Relevant Document; and
- (b) upon request, supply certified copies to the Agent of any authorisation required under any law or regulation of its jurisdiction of incorporation to:
  - (i) enable it to perform its obligations under the Relevant Documents to which it is a party;
  - (ii) ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of any Relevant Document; or
  - (iii) enable any Obligor to carry on its business where failure to do so has or is reasonably likely to have a Material Adverse Effect.

21.2 **Compliance with laws**

- (a) Each Obligor shall comply (and shall procure that each Affiliate of any of them shall comply) in all respects with all laws, regulations and directives to which it may be subject if (except as regards Sanctions, to which Clause 21.2(b) applies, and anti-corruption laws, to which Clause 21.5 (*Anti-corruption laws*) applies) failure to do so has or is reasonably likely to have a Material Adverse Effect.
- (b) Each Obligor shall (and shall procure that each Affiliate of any of them shall comply) in all respect with all Sanctions.

21.3 **Environmental compliance**

Each Obligor shall:

- (a) comply with all Environmental Laws applicable to it and the Vessel owned by it, as the case may be;
- (b) obtain, maintain and ensure compliance with all Environmental Approvals applicable to it and the Vessel owned by it, as the case may be; and
- (c) implement procedures to monitor compliance with and to prevent liability under any Environmental Law applicable to it and the Vessel owned by it, as the case may be,

where failure to do so has or is reasonably likely to have a Material Adverse Effect.

21.4 **Environmental Claims**

The Borrower shall, promptly upon becoming aware of the same, inform the Agent in writing of:

- (a) any Environmental Claim against any of the Obligors which is current, pending or threatened; and
- (b) any facts or circumstances which are reasonably likely to result in any Environmental Claim being commenced or threatened against any of the Obligors, where the claim, if determined against that Obligor, has or is reasonably likely to have a Material Adverse Effect.

21.5 **Anti-corruption laws**

- (a) No Obligor shall (and each Obligor shall procure that no other Obligor which is a Subsidiary of that Obligor shall) directly or indirectly use the proceeds of the Loan for any purpose that would breach the Bribery Act 2010, the United States Foreign Corrupt Practices Act of 1977 or other similar legislation in other jurisdictions.
- (b) Each Obligor shall (and shall procure that each other Obligor which is a Subsidiary of that Obligor shall):
  - (i) conduct its businesses in material compliance with applicable anti-corruption laws; and
  - (ii) maintain policies and procedures designed to promote and achieve compliance with such laws.

## 21.6 Taxation

- (a) Each Transaction Obligor shall (and shall procure that each other Transaction Obligor which is a Subsidiary of that Transaction Obligor shall) pay and discharge all Taxes imposed upon it or its assets within the time period allowed without incurring penalties unless and only to the extent that:
- (i) such payment is being contested in good faith;
  - (ii) adequate reserves are being maintained for those Taxes and the costs required to contest them, which have been disclosed in its latest financial statements delivered to the Agent under Clause 19.1 (*Financial statements*);
  - (iii) such payment can be lawfully withheld; and
  - (iv) failure to pay those Taxes does not have or is not reasonably likely to have a Material Adverse Effect.
- (b) No Vessel Owner may change its residence for Tax purposes.

## 21.7 Pari passu ranking

Each Transaction Obligor shall (and shall procure that each other Transaction Obligor which is a Subsidiary of that Transaction Obligor shall) ensure that at all times any unsecured and unsubordinated claims of a Finance Party against it under the Finance Documents rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors except those creditors whose claims are mandatorily preferred by laws of general application to companies.

## 21.8 Negative pledge

- (a) In this Clause 21.8, “**Quasi-Security**” means an arrangement or transaction described in Clause 21.8(b).
- (b) Except as permitted under Clause 21.8(c):
- (i) None of the Borrower, the Parent nor any Vessel Owner shall create nor permit to subsist any Security over any of its assets.
  - (ii) None of the Borrower, the Parent nor any Vessel Owner shall:
    - (1) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by an Obligor or any other member of the Group or any Related Party;
    - (2) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
    - (3) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
    - (4) enter into any other preferential arrangement having a similar effect, in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

- (c) Paragraph (b) above does not apply to any Security or (as the case may be) Quasi-Security, which is a Permitted Security, a Permitted Transaction or a Permitted Vessel Disposal.

**21.9 Disposals**

- (a) Except as permitted under Clause 21.9(b), no Transaction Obligor (other than the Ultimate Parent) shall enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any asset.
- (b) Clause 21.9(a) does not apply to any sale, lease, transfer or other disposal which is a Permitted Transaction or a Permitted Vessel Disposal.

**21.10 Arm's length basis**

- (a) Except as permitted under Clause 21.10(b), no Obligor shall (and each Obligor shall procure that no other Subsidiary of that Obligor shall) enter into any transaction with any person except on arm's length terms.
- (b) Other than the entry by a Vessel Owner into a Management Agreement with an Approved Manager, no Obligor shall enter into a transaction with a Related Party without the prior written consent of the Agent (such consent not be unreasonably withheld or delayed).
- (c) The following transactions shall not be a breach of Clause 21.10(a):
  - (i) fees, costs and expenses payable under the Relevant Documents in the amounts set out in the Relevant Documents delivered to the Agent under Clause 4.1 (*Initial conditions precedent*) or fees, costs and expenses agreed by the Agent;
  - (ii) any Permitted Dividends; and
  - (iii) any Permitted Transaction.

**21.11 Merger**

No Transaction Obligor shall without the prior written consent of the Lenders, enter into any amalgamation, demerger, merger, consolidation or corporate reconstruction other than a Permitted Transaction.

**21.12 Change of business**

No Obligor shall make any substantial change to the general nature of its business from that carried on at the date of this Agreement.

**21.13 No other business**

- (a) None of the Vessel Owners shall engage in any business other than the ownership, operation, chartering and management of the relevant Vessel owned by it.
- (b) The Borrower shall not engage in any business other than the ownership of the shares in each Vessel Owner.

- (c) The Parent shall not engage in any business other than the ownership of the shares in the Borrower.
- (d) The Transaction Obligors shall not cause or permit any Dormant Company to commence trading, incur any liabilities (other than the payment of corporate maintenance fees to the relevant government entity in Hong Kong in the case of any Transaction Obligor incorporated in Hong Kong) or own, legally or beneficially, any assets until such time as it accedes to this Agreement as a Vessel Owner in accordance with Clause 28.2 (*Additional Vessel Owners*).

**21.14 No acquisitions**

No Transaction Obligor (other than the Ultimate Parent) shall acquire a company or any shares or securities or a business or undertaking (or, in each case, any interest in any of them) or incorporate a company other than an acquisition by the Borrower of shares in a Vessel Owner, provided that such Vessel Owner accedes to this Agreement in accordance with Clause 28.2 (*Additional Vessel Owners*) at the time of such acquisition.

**21.15 No Joint Ventures**

No Transaction Obligor (other than the Ultimate Parent) shall:

- (a) enter into, invest in or acquire (or agree to acquire) any shares, stocks, securities or other interest in any Joint Venture; or
- (b) transfer any assets or lend to or guarantee or give an indemnity for or give security for the obligations of a Joint Venture or maintain the solvency of or provide working capital to any Joint Venture (or agree to do any of the foregoing).

**21.16 No borrowings**

None of the Borrower, the Parent nor any Vessel Owner shall incur or allow to remain outstanding any Financial Indebtedness (except for the Loan and the Permitted Intercompany Debt).

**21.17 No substantial liabilities**

Except in the ordinary course of trading, none of the Obligors (other than the Ultimate Parent) shall incur any liability to any third party which is in the Agent's opinion of a substantial nature (except for the Loan and Permitted Intercompany Debt).

**21.18 No loans or credit**

Neither the Borrower, the Parent nor any Vessel Owner shall be a creditor in respect of any Financial Indebtedness (other than pursuant to the Finance Documents and the Permitted Intercompany Debt) unless it is a loan made in the ordinary course of business on arm's length terms in connection with the chartering, operation or repair of a Vessel or a Permitted Transaction.

**21.19 No guarantees or indemnities**

No Transaction Obligor (other than the Ultimate Parent) shall incur or allow to remain outstanding any guarantee in respect of any obligation of any person unless it is a Permitted Transaction.

#### 21.20 **No dividends**

Except for any Permitted Dividend, no Transaction Obligor (other than the Ultimate Parent) shall:

- (a) declare, make or pay any dividend, charge, fee or other distribution (or interest on any unpaid dividend, charge, fee or other distribution) (whether in cash or in kind) on or in respect of its share capital (or any class of its share capital);
- (b) repay or distribute any dividend or share premium reserve; or
- (c) redeem, repurchase, defease, retire or repay any of its share capital or resolve to do so.

#### 21.21 **Inspection of records**

Each Transaction Obligor (other than the Ultimate Parent) shall permit the inspection of its respective financial, operating and insurance records and accounts as may be reasonably required from time to time by the Agent or its nominee.

#### 21.22 **No change in Relevant Documents**

- (a) No Obligor shall:
  - (i) exercise any discretion under any of the Relevant Documents which are not Finance Documents in a manner which is materially adverse to the interests of the Lenders; or
  - (ii) amend, vary, novate, supplement, supersede, waive or terminate any term of, any of the Relevant Documents which are not Finance Documents, or any other document delivered to the Agent pursuant to Clause 4.1 (*Initial conditions precedent*) or Clause 4.2 (*Further conditions precedent*) or Clause 4.4 (*Conditions subsequent*) in a manner which is or could be expected to be adverse to the interests of the Lenders or which would or could otherwise adversely affect the ability of the Obligors to perform their obligations under the Finance Documents.
- (b) Each Obligor shall take all reasonable and practical steps to preserve and enforce its rights and pursue any claims and remedies arising under any Relevant Documents which are not Finance Documents.
- (c) Each Obligor shall (and shall procure that each other Obligor which is a Subsidiary of that Obligor shall) comply with its obligations under the Relevant Documents which are not Finance Documents.

#### 21.23 **Further assurance**

- (a) Each Obligor shall promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Agent may reasonably specify (and in such form as the Security Agent may reasonably require in favour of the Security Agent or its nominee(s)):
  - (i) to perfect any Security created or intended to be created under or evidenced by the Security Documents (which may include the execution of a mortgage, charge, assignment or other Security over all or any of the assets which are, or are intended to be, the subject of the Security Documents) or for the exercise

of any rights, powers and remedies of the Security Agent or the Finance Parties provided by or pursuant to the Finance Documents or by law;

- (ii) to confer on the Security Agent or confer on the Finance Parties Security over any property and assets of that Borrower (or that other Obligor as the case may be) located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to the Security Documents; and/or
  - (iii) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security Documents.
- (b) Each Obligor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Security Agent or the Finance Parties by or pursuant to the Finance Documents.

#### 21.24 Sanctions

- (a) The Obligors shall not, directly or indirectly use, lend, make payments of, contribute or otherwise make available, all or any part of the proceeds of the Loan or other transaction(s) contemplated by this Agreement:
- (i) to fund either directly or indirectly any trade, business or other activities:
    - (1) involving or for the benefit of any Restricted Person; or
    - (2) in any country or territory that, at the time of such funding, is a Sanctioned Country; or
    - (3) in any other manner that would reasonably be expected to result in any person or any Finance Party being in breach of any Sanctions (if and to the extent applicable to either of them) or becoming a Restricted Person.
- (b) No Obligor shall permit or authorise, and each Obligor shall prevent, any Vessel being used directly or indirectly:
- (i) by or for the benefit of any Restricted Person or in any country, or territory, that is a Sanctioned Country; and/or
  - (ii) in any trade which will expose a Vessel, any person, an Approved Manager, crew or insurers to enforcement proceedings or any other consequences whatsoever arising from Sanctions.
- (c) Each Obligor shall ensure that neither its assets nor the assets subject to the Security Documents shall be used directly or indirectly by or for the benefit of any Restricted Person or otherwise used in any manner which would not be in compliance with Sanctions.
- (d) Each Obligor shall comply with Sanctions.

#### 21.25 Use of proceeds

The Borrower shall not, and will procure that each other Obligor shall not, and shall not permit or authorise any other person to, directly or indirectly, make available any proceeds of

the Loan to fund or facilitate trade, business or other activities (i) involving or for the benefit of any Restricted Person or (ii) in any other manner that could result in any Obligor or a Finance Party not being in compliance with Sanctions or becoming a Restricted Person.

**22. Vessel Undertakings**

**22.1 General**

The undertakings in this Clause 22 shall remain in force from the date of this Agreement for so long as any amount is outstanding under any Finance Document.

**22.2 Vessel Name and Registration**

Each Vessel Owner shall, in respect of the Vessel owned by it:

- (a) keep that Vessel registered in its name with the Approved Flag from time to time;
- (b) not do or allow to be done anything as a result of which such registration might be cancelled or imperilled; and
- (c) not change the name or port of registry of that Vessel without the prior written consent of the Agent (acting with the instruction of the Majority Lenders), such consent not to be unreasonably withheld or delayed.

**22.3 Repair and Classification**

Each Vessel Owner shall keep the Vessel owned by it:

- (a) in a good and safe condition and state of repair;
- (b) consistent with first class ship ownership and management practice;
- (c) in a manner such that they maintain the Classification of that Vessel free of recommendations and conditions; and
- (d) so as to comply with all laws and regulations applicable to similar vessels registered under the Approved Flag or to similar vessels trading to any jurisdiction to which that Vessel may trade from time to time including but not limited to ISM Code and the ISPS Code.

**22.4 Modification**

Each Vessel Owner shall, in respect of the Vessel owned by it, not make or permit to be made, any modification or repairs to, or replacement of, the Vessel owned by it or equipment installed on that Vessel that would or might materially and adversely alter the structure, type or performance characteristics of that Vessel or materially reduce its value except as required by change of law or regulation.

**22.5 Removal of Parts**

Each Vessel Owner shall, in respect of the Vessel owned by it, not remove, nor permit the removal, of any material part of the Vessel owned by it, or any item of equipment installed on that Vessel, unless the part or item so removed is replaced as soon as practicable by a suitable part or item which is in the same condition as or better condition than the part or item removed, is free from any Security or any right in favour of any person other than the Security Agent and becomes on installation on that Vessel, the property of the relevant Vessel Owner,



and subject to the security constituted by the Mortgage relating to that Vessel PROVIDED THAT the relevant Vessel Owner may install equipment owned by a third party if the equipment can be removed without any risk of damage to that Vessel.

#### 22.6 **Surveys**

Each Vessel Owner shall, in respect of the Vessel owned by it, submit that Vessel regularly to all periodical or other surveys which may be required for classification purposes and, if so required by the Agent, provide the Agent with copies of all survey reports.

#### 22.7 **Inspection**

Each Vessel Owner shall permit the Agent and/or the Security Agent (by surveyors or other persons appointed by it for that purpose) to board the Vessel owned by it at all reasonable times provided that the Agent/Security Agent has given two (2) Business Days' prior written notice and such inspection shall not unduly interfere with the normal operation of the Vessel, in order for the Agent and/or the Security Agent to inspect the Vessel's condition or to satisfy themselves about proposed or executed repairs and shall afford all proper facilities for such inspections, provided that, so long as no Event of Default has occurred and is continuing, the number of inspections of each Vessel shall not exceed one per calendar year. Any costs, fees or expenses relating to such inspections shall be for the account of the Transaction Obligors, provided that, so long as no Event of Default has occurred and is continuing, the Transaction Obligors shall not be required to pay for more than one inspection per Vessel in any calendar year.

#### 22.8 **Technical Review**

Prior to an MOA for the acquisition of a Vessel being entered into, the Borrower shall inform the Agent of the proposed Vessel acquisition and shall provide the Agent with any information in respect of the proposed Vessel as the Agent may reasonably request. Upon receipt of such information, the Agent (acting on the instructions of the Majority Lenders) shall advise the Borrower as soon as reasonably practicable whether they will require a satisfactory physical inspection of that Vessel as a condition precedent to the acquisition.

#### 22.9 **Prevention and Release from Arrest**

Each Vessel Owner shall, in respect of the Vessel owned by it, promptly discharge:

- (a) all liabilities which give or may give rise to maritime or possessory liens on or claims enforceable against that Vessel, its Earnings or its Insurances;
- (b) all Taxes, dues and other amounts charged in respect of that Vessel, its Earnings or its Insurances; and
- (c) all other outgoings whatsoever in respect of that Vessel, its Earnings or its Insurances,

and, forthwith upon receiving notice of the arrest of that Vessel, or of its detention in exercise or purported exercise of any lien or claim, the relevant Vessel Owner shall procure its release by providing bail or otherwise as the circumstances may require.

#### 22.10 **Compliance with Laws**

Each Vessel Owner shall:

- (a) comply, or procure compliance with all Environmental Laws, the ISM Code, the ISPS Code, Sanctions and all other laws and regulations relating to the Vessel owned by it, its ownership, operation and management or to its business;
- (b) not employ the Vessel owned by it nor allow its employment in any manner contrary to any law or regulation in any relevant jurisdiction including but not limited to the ISM Code and the ISPS Code, any Environmental Laws and any Sanctions;
- (c) maintain an ISSC for the Vessel owned by it;
- (d) in the event of hostilities in any part of the world (whether war is declared or not), not cause or permit the Vessel owned by it to enter or trade to any zone which is declared a war zone by any government or by the war risks insurers of the Vessel owned by it unless the prior written consent of the Agent has been given and the relevant Vessel Owner has (at their expense) effected any special, additional or modified insurance cover which the Agent may require; and
- (e) in respect of any Vessel whose age exceeds 10 years and if required by law or regulation, obtain a green passport for the Vessel owned by it, promptly after completion of the first dry-dock to occur after the tenth anniversary of the date on which the relevant Vessel was delivered by the relevant builder to its first owner, and shall maintain such green passport throughout the Facility Period.

#### 22.11 **Classification Society**

Following a written request by the Agent, the relevant Vessel Owner shall instruct the relevant Classification Society to (and shall procure that such Classification Society shall undertake to the Security Agent to):

- (a) notify the Security Agent promptly in writing if the Classification Society:
  - (i) receives notification that a Vessel's classification society is to be changed; or
  - (ii) becomes aware of any facts or matters which may result in or have resulted in a change, discontinuance, withdrawal suspension, or expiry of a Vessel's class under the rules or terms and conditions of such Vessel Owner's or a Vessel's membership of the Classification Society;
- (b) following receipt of a request in writing by the Security Agent:
  - (i) either send to the Security Agent certified true copies of all original class records held by the Classification Society in relation to a Vessel or allow the Security Agent (or its agents) at any time to inspect the original class and related records of such Vessel Owner and a Vessel at the offices of the Classification Society and to take copies of them; and
  - (ii) confirm whether the relevant Vessel Owner is or is not in default of any of its obligations or liabilities to the Classification Society, including confirmation on whether it has paid in full all fees or other charges due and payable to the Classification Society and, if that Vessel Owner is in default, to specify in reasonable detail the facts and circumstances of such default, the consequences of such default, and any remedy period agreed or allowed by the Classification Society.

## 22.12 Provision of Information

Each Vessel Owner shall, in respect of the Vessel owned by it, promptly provide the Lenders with any information which they reasonably request regarding:

- (a) that Vessel, its employment, position and engagements;
- (b) its Earnings;
- (c) payments and amounts due to the master and crew of that Vessel;
- (d) any towages and salvages (other than in the case of towages in the normal course of the Vessel's operations); and
- (e) the Vessel Owner's, the Approved Managers' or that Vessel's compliance with the ISM Code and the ISPS Code.

## 22.13 Notification of Certain Events

Each Vessel Owner shall, in relation to the Vessel owned by it, immediately notify the Agent by email, confirmed forthwith by letter, of:

- (a) any casualty relating to that Vessel which is or is likely to be or to become a Major Casualty;
- (b) any occurrence as a result of which that Vessel has become or is, by the passing of time or otherwise, likely to become a Total Loss;
- (c) any requirement or recommendation made by any insurer or the Classification Society or by any competent authority which is not complied with within the period required for compliance or, if no such period for compliance has been specified, as soon as reasonably practical and in any event within twenty (20) Business Days;
- (d) any arrest or detention of that Vessel, any exercise or purported exercise of any lien on that Vessel or its Earnings or any requisition of that Vessel for hire;
- (e) any intended dry docking of that Vessel;
- (f) any Environmental Claim made against any Vessel Owner or in connection with any Vessel, or any Environmental Incident;
- (g) any claim for breach of the ISM Code or the ISPS Code being made against any Vessel Owner, any Approved Manager or otherwise in connection with that Vessel;
- (h) any actual or threatened withdrawal, suspension, cancellation or modification of the ISSC; and
- (i) any other matter, event or incident, actual or threatened, the effect of which will or could lead to the ISM Code or the ISPS Code not being complied with,

and the Vessel Owners shall keep the Agent advised in writing on a regular basis and in such detail as the Agent shall require of the Vessel Owners', the Approved Managers' or any other person's response to any of those events or matters.

#### 22.14 Restrictions on Chartering etc.

No Vessel Owner shall, in relation to the Vessel owned by it:

- (a) let that Vessel on demise charter for any period;
- (b) enter into or vary any time charter, consecutive voyage charter or other contract of employment in respect of that Vessel without the prior written consent of the Agent (acting on the instructions of the Majority Lenders), such consent not to be unreasonably withheld or delayed:
  - (i) for a term which exceeds thirteen (13) months; or
  - (ii) for a term which, by virtue of any option of extensions, may exceed thirteen (13) months;
- (c) enter into or vary any charter in relation to that Vessel under which more than two (2) months' hire (or the equivalent) is payable in advance;
- (d) charter that Vessel otherwise than on bona fide arm's length terms at the time when that Vessel is fixed (and for the avoidance of doubt any charter to a member of the Group or any of their respective Affiliates shall not be permitted without the Agent's prior written consent (such consent not to be unreasonably withheld or delayed));
- (e) pay or agree to pay any fees, commission, or any other compensation, contribution, remuneration, or payment of any kind whatsoever to an Approved Manager other than in accordance with the terms of a Management Agreement;
- (f) deactivate or lay-up that Vessel; or
- (g) put that Vessel into the possession of any person for the purpose of work being done upon her in an amount exceeding or likely to exceed US\$750,000 (or the equivalent in any other currency) unless that person has first given to the Agent in terms satisfactory to it a written undertaking not to exercise any lien on that Vessel or its Earnings for the cost of such work (excluding any Dry Docking Costs that will be paid for exclusively from amounts standing to the credit of the Dry Docking Reserve Account in respect of that particular Vessel and, subject to evidence satisfactory to the Agent that the relevant insurers have approved the relevant claim, any work which will be paid for from the proceeds of the Insurances).

#### 22.15 Approval of charters

- (a) For charters where the prior written consent of the Agent is not required in accordance with Clause 22.14 (*Restrictions on Chartering etc.*) above, the Borrower will provide a copy of the spot or term charter (or, in the case of a renewal, its renewal terms) agreed between the relevant Vessel Owner and the relevant charterer prior to it being entered into with the relevant charterer and will consider in good faith and respond to any points which the Agent (acting promptly) raises in relation to that charter (it being acknowledged, however, that the relevant Vessel Owner may enter into the charter or the renewal, as applicable, at any time after such copy has been provided by the Borrower, provided always that it is on arm's length commercial terms).
- (b) For charters where the prior written consent of the Agent is required in accordance with Clause 22.14 (*Restrictions on Chartering etc.*) above, the Borrower will provide a copy of the spot or term charter (or, in the case of a renewal, its renewal terms) agreed between the relevant Vessel Owner and the relevant charterer to the Agent for

its approval and the Agent (acting promptly) shall either give its approval to the charter or decline to do so (and inform the Borrower of any amendments to the charter which are required by it in order to give its approval).

**22.16 Notice of Mortgage**

Each Vessel Owner shall keep the Mortgage registered against the Vessel owned by it as a valid first priority or first preferred mortgage (as the case may be), carry on board that Vessel a certified copy of the relevant Mortgage and place and maintain in a conspicuous place in the navigation room and the Master's cabin of that Vessel a framed printed notice stating that the Vessel is mortgaged by the relevant Vessel Owner to the Security Agent.

**22.17 Sharing of Earnings**

No Vessel Owner shall enter into any agreement or arrangement for the sharing of any Earnings relating to any Vessel, other than with the prior written consent of the Agent (acting on the instructions of all Lenders), which consent the Agent shall have full power to withhold.

**22.18 Manager**

A manager of a Vessel shall not be appointed unless that manager is, in the case of the technical management of a Vessel, an Approved Technical Manager or, in the case of the commercial management of a Vessel, an Approved Commercial Manager, the appointment is on arms' length terms and, in advance of any appointment:

- (a) the terms of its appointment are approved in writing by the Agent (such approval not be unreasonably withheld or delayed); and
- (b) the relevant Approved Manager has delivered a duly executed Manager's Undertaking to the Security Agent (together with evidence reasonably satisfactory to the Agent of the due authority of the signatory thereto).

**22.19 Management Agreement**

No Vessel Owner will agree to any alteration to the terms of an Approved Manager's appointment, nor permit or authorise an Approved Manager to transfer or delegate any of its obligations under the relevant management agreement (unless permitted to do so under the terms of the relevant Management Agreement), without the prior consent of the Agent (which consent the Agent shall have full power to withhold) and subject to any Approved Sub-Manager providing a duly executed Manager's Undertaking to the Security Agent.

**22.20 Quiet Enjoyment**

- (a) If required by the relevant charterer in respect of a Charter, the Security Agent shall promptly consider in good faith, and not unreasonably withhold its consent to, any request to agree (on behalf of the other Finance Parties) quiet enjoyment arrangements with such charterer.
- (b) In respect of a time charter or other contract of employment where the charter period is less than thirteen (13) months (including by virtue of optional extensions), if required by the relevant charterer the Security Agent shall promptly consider in good faith, but be under no obligation to accept, any request to agree (on behalf of the other Finance Parties) quiet enjoyment arrangements with such charterer.

23. **Insurance Undertakings**

23.1 **General**

Each Vessel Owner undertakes to comply with the following provisions of this Clause 23 for so long as any amount is outstanding under the Finance Documents or except as the Security Agent may otherwise permit (acting on the instructions of all Lenders).

23.2 **Maintenance of Obligatory Insurances**

Each Vessel Owner will keep the Vessel owned by it at all times insured at its own cost and expense against:

- (a) fire and usual marine risks (including hull and machinery, excess risks and increased value) and war risks (including the London blocking and trapping addendum or equivalent coverage, including terrorism and piracy risks where excluded under the fire and usual marine risks insurance and including, without limitation, protection and indemnity war risks with a separate limit not less than hull value) for an amount on an agreed value basis at least the greater of:
  - (i) an amount equal to 120% of the Tranche in respect of that Vessel (and, when aggregated with such insurances in respect of each Vessel other than that Vessel, 120% of the Loan); and
  - (ii) the Market Value of that Vessel;
- (b) protection and indemnity risks (including without limitation protection and indemnity war risks in excess of the amount for war risks (hull) and oil pollution liability risks and in respect of the full value and tonnage of that Vessel), on “full entry terms” for the highest available amount in the insurance market for vessels of a similar age and type as that Vessel (but, in relation to liability for oil pollution, for an amount not less than US\$1,000,000,000); and
- (c) any other risks against which the Agent considers, having regard to practices and other circumstances prevailing at the relevant time which are relevant in the context of the age and type of the relevant Vessel and her trading pattern and the generally acknowledged practice of shipping companies of similar size and standing as the Ultimate Parent, it would in the opinion of the Agent be reasonable for that Vessel Owner to insure and which are specified by the Agent by notice to the Borrower and/or that Vessel Owner.

23.3 **Terms of Obligatory Insurances**

The obligatory insurances shall:

- (a) be in Dollars;
- (b) be on terms approved by the Agent in writing;
- (c) be through approved brokers and with approved insurance companies and/or underwriters or, in the case of war risks and protection and indemnity risks, in approved war risks and protection and indemnity risks associations, which are members of the International Group of Protection and Indemnity Associations, and have Standard & Poor’s rating of at least A or such other comparable rating by any other rating agency acceptable to the Agent (acting on the instructions of all Lenders)

or such other rating as the Agent (acting on the instructions of all Lenders) may approve, such approval not to be unreasonably withheld or delayed;

- (d) whenever required by the Agent, name (or be amended to name) the Security Agent as additional named assured for its rights and interests, warranted no operational interest and with full waiver of rights of subrogation against the Security Agent (as the case may be), but without the Security Agent thereby being liable to pay (but having the right to pay) premiums, calls or other assessments in respect of such insurance;
- (e) name the Security Agent as loss payee with such directions for payment as the Security Agent may specify (such loss payable clauses to be in the form determined pursuant to the provisions of the General Assignments);
- (f) provide that all payments by or on behalf of the insurers under the obligatory insurances to the Security Agent shall be made without set off, counterclaim or deductions or condition whatsoever;
- (g) provide that such obligatory insurances shall be primary without right of contribution from other insurances which may be carried by the Security Agent and/or the Agent; and
- (h) provide that the Security Agent may make proof of loss if the relevant Vessel Owner fails to do so.

#### 23.4 **Renewal**

Each Vessel Owner shall:

- (a) at least fourteen (14) days before the expiry of any obligatory insurance relating to a Vessel;
  - (i) notify the Agent of the approved brokers (or other insurers) and any protection and indemnity or war risks association through or with whom a Borrower proposes to renew that obligatory insurance and of the proposed terms of renewal; and
  - (ii) obtain the Agent's approval to the matters referred to in paragraph (a)(i), such approval not to be unreasonably withheld or delayed;
- (b) at least seven (7) days before the expiry of any obligatory insurance relating to a Vessel, renew that obligatory insurance in accordance with the Agent's approval pursuant to paragraph (a); and
- (c) not add any (other) assured to any obligatory insurance without the prior written consent of the Agent.

#### 23.5 **Copies of Policies**

Each Vessel Owner shall provide to the Agent pro forma copies of all insurance policies and other documentation issued by brokers, insurance and protection and indemnity associations as soon as they are available after they have been placed or renewed.

#### 23.6 **Copies of Certificates of Entry**

Each Vessel Owner shall ensure that any protection and indemnity and/or war risks association in which a Vessel is entered provides the Agent with:

- (a) a certified copy of the certificate of entry for the Vessel owned by it;
- (b) a letter or letters of undertaking in such form as may be required by the Security Agent (but having regard to the market practice of such association and law at the time of issue of such letter of undertaking); and
- (c) where required to be issued under the terms of insurance or indemnity provided by the relevant Vessel Owner's protection and indemnity association, a certified copy of each certificate of financial responsibility for pollution by oil or other Environmentally Sensitive Material issued by the relevant certifying authority in relation to the Vessel owned by it.

### 23.7 **Letters of Undertaking**

Each Vessel Owner shall ensure that all approved brokers provide the Security Agent a letter or letters of undertaking in a form required by the Security Agent and including undertakings by the approved brokers that:

- (a) they will have endorsed on each policy, immediately upon issue, a loss payable clause and a notice of assignment in the agreed form or in such other forms as the Security Agent may require;
- (b) they will hold such policies, and the benefit of such insurances, to the order of the Security Agent in accordance with the said loss payable clause;
- (c) they will advise the Security Agent immediately of any material change to the terms of the obligatory insurances;
- (d) they will notify the Security Agent, not less than seven (7) days before the expiry of the relevant obligatory insurances, in the event of their not having received notice of renewal instructions from the relevant Vessel Owner or its agents and, in the event of their receiving instructions to renew, they will promptly notify the Security Agent of the terms of the instructions; and
- (e) they will not set off against any sum recoverable in respect of a claim relating to the Vessel owned by that Vessel Owner under such obligatory insurances any premiums or other amounts due to them or any other person whether in respect of that Vessel or otherwise, they waive any lien on the policies, or any sums received under them, which they might have in respect of such premiums or other amounts, and they will not cancel such obligatory insurances by reason of non-payment of such premiums or other amounts, and will arrange for a separate policy to be issued in respect of that Vessel forthwith upon being so requested by the Security Agent, but in all cases having regard to general insurance market practice and law at the time of issue of such letter of undertaking.

### 23.8 **Deposit Original Policies**

Unless the policies are only in electronic format, each Vessel Owner shall ensure that the originals of all policies relating to obligatory insurances are deposited with the approved brokers through which the insurances are effected or renewed.

### 23.9 **Payment of Premiums**

Each Vessel Owner shall punctually pay all premiums or other sums payable in respect of the obligatory insurances and produce all relevant receipts when so required by the Agent.



**23.10 P&I Guarantees**

Each Vessel Owner shall ensure that any guarantees required by a protection and indemnity or war risks association are promptly issued and remain in full force and effect.

**23.11 Compliance with Terms of Obligatory Insurances**

No Vessel Owner shall do or omit to do (or permit to be done or not to be done) any act or thing which would or might render any obligatory insurance invalid, void, voidable or unenforceable or render any sum payable under an obligatory insurance repayable in whole or in part; and, in particular:

- (a) each Vessel Owner shall take all necessary action and comply with all requirements which may from time to time be applicable to the obligatory insurances, and (without limiting the obligation contained in Clause 23.6 (*Copies of Certificates of Entry*)) ensure that the obligatory insurances are not made subject to any exclusions or qualifications to which the Agent has not given its prior written approval;
- (b) no Vessel Owner shall make any changes relating to the Classification or Classification Society or manager or operator of the Vessel owned by it unless approved by the underwriters of the obligatory insurances; and
- (c) no Vessel Owner shall employ the Vessel owned by it, or allow it to be employed, otherwise than in conformity with the terms and conditions of the obligatory insurances, without first obtaining the consent of the Agent and the insurers and complying with any requirements (as to extra premium or otherwise) which the Agent and the insurers specify.

**23.12 Alteration to Terms of Obligatory Insurances**

No Vessel Owner shall make nor agree to any alteration to the terms of any obligatory insurance (other than a change relating to the insurance premiums to be paid) or waive any right relating to any obligatory insurance without the prior written consent of the Security Agent (acting on the instructions of all the Lenders), such consent not to be unreasonably withheld or delayed.

**23.13 Settlement of Claims**

No Vessel Owner shall settle, compromise or abandon any claim under any obligatory insurance for a Total Loss or for a Major Casualty without the prior written consent of the Security Agent (such consent not to be unreasonably withheld or delayed), and shall do all things necessary and provide all documents, evidence and information reasonably required to enable the Security Agent to collect or recover any moneys which at any time become payable in respect of the obligatory insurances.

**23.14 Application of recoveries**

Any sums paid under the obligatory insurances other than to the Security Agent shall be applied in repairing the damage and/or discharging the liability in respect of which they have been paid, save to the extent that the repairs have already been completed and paid for and/or the liability has already been fully discharged.

**23.15 Provision of Copies of Communications**

Each Vessel Owner shall provide the Agent, at the time of each such communication, copies of all material written communications between such Vessel Owner and each of the following:

- (a) the approved brokers; and
- (b) the approved protection and indemnity and/or war risks associations; and
- (c) the approved insurance companies and/or underwriters,

which relate directly or indirectly to:

- (i) that Vessel Owner's obligations relating to the obligatory insurances including, without limitation, all requisite declarations and payments of additional premiums or calls; and
- (ii) any credit arrangements made between that Vessel Owner and any of the persons referred to in paragraphs (a) or (b) relating wholly or partly to the effecting or maintenance of the obligatory insurances.

#### 23.16 **Provision of Information**

In addition, each Vessel Owner shall promptly provide the Agent (or any persons which the Agent may designate) with any information which the Agent (or any such designated person) reasonably requests for the purpose of:

- (a) obtaining or preparing any report from an independent marine insurance broker as to the adequacy of the obligatory insurances effected or proposed to be effected, provided that, unless an Event of Default has occurred and is continuing or there is a change to the terms of the insurance cover, that Vessel Owner shall not bear the costs of more than one such report per calendar year; and/or
- (b) effecting, maintaining or renewing any such insurances as are referred to in Clause 23.17 (*Mortgagee's Interest and Additional Perils*) or dealing with or considering any matters relating to any such insurances,

and each Vessel Owner shall, within three (3) Business Days of demand, indemnify the Agent in respect of all fees and other expenses incurred by or for the account of the Agent in connection with any such report as is referred to in paragraph (a).

#### 23.17 **Mortgagee's Interest and Additional Perils**

The Security Agent shall be entitled, at the cost and expense of the Transaction Obligors, from time to time to effect, maintain and renew:

- (a) a Mortgagee's Interest Additional Perils (Pollution) Insurance and a Mortgagee's Interest Marine Insurance in each case in an amount equal to 120% of the Loan and otherwise on such terms, through such insurers and generally in such manner, as the Security Agent may from time to time consider appropriate; and
- (b) any other insurance cover which the Security Agent reasonably requires in respect of a Finance Party's interests and potential liabilities (whether as mortgagee of a Vessel or beneficiary of the Security Documents) in line with prevailing market practice for financing transactions of this nature (following confirmation of the recommendation for such insurance cover from the Security Agent's independent marine insurance advisers) and the Obligors shall upon demand fully indemnify the Security Agent in respect of all premiums and other expenses which are incurred in connection with or with a view to effecting, maintaining or renewing any insurance referred to in this Clause 23.17 or dealing with, or considering, any matter arising out of such insurance,

and the Transaction Obligors shall supply, or procure that there is supplied, to the Security Agent such information as the Security Agent may require in connection with the matters referred to in this Clause 23.17.

**23.18 Change in insurance requirements**

The Agent shall have the right, by giving notice to the Borrower and/or the Vessel Owners, to change the terms and requirements of this Clause 23.18 in such manner as it considers appropriate as a result of a change of circumstances or practice after the date of this Agreement (provided that such a change has been recommended by the Security Agent's independent marine insurance advisers), in which case, from the date being fourteen (14) days after such notice is provided, this Clause 23.18 shall be automatically be deemed modified in accordance with the terms of that notice.

**24. Accounts**

**24.1 Maintenance**

- (a) Other than with the consent of the Agent (acting on the instructions of all Lenders), no Transaction Obligor (except for the Ultimate Parent) shall open or maintain any bank accounts other than:
  - (i) the Accounts required in connection with this Agreement or the other Finance Documents; or
  - (ii) a joint account (with the seller of a proposed Additional Vessel) or an escrow account with a law firm, notary or bank into which the deposit is to be paid under the terms of the relevant MOA; or
  - (iii) an Approved Suspense Account.
- (b) Each Account Holder shall maintain the relevant Accounts with the Account Bank, free of Security and rights of set-off (other than as created under the Accounts Security), until no amount remains outstanding from them under this Agreement or any other Finance Documents.

**24.2 Location of Accounts**

Each Account Holder shall promptly execute any documents which the Agent specifies to create or maintain in favour of the Security Agent Security over (and/or rights of set-off, consolidation or other rights in relation to) each Account.

**24.3 Application of Account**

- (a) Each Account Holder shall procure that transfers are made from each Account in order to facilitate the payment of amounts required and/or contemplated by this Agreement and the other Finance Documents.
- (b) Each Account Holder shall only be permitted to withdraw sums from the Accounts in accordance with the provisions of the Finance Documents or as otherwise permitted by the Agent (acting on the instructions of the Majority Lenders).
- (c) Without prejudice to its other rights under the Transaction Security and without obligation to do so, each Account Holder irrevocably authorises the Agent after the occurrence of an Event of Default (and whilst it is continuing) to instruct an Account Bank to make any transfer from any Account in order to facilitate the payment of

amounts required and/or contemplated by this Agreement and the other Finance Documents.

**24.4 Earnings and Requisition Compensation**

- (a) Each Transaction Obligor shall procure that all Earnings and Requisition Compensation in relation to a Vessel are credited to the relevant Earnings Account, unless and until the Agent shall otherwise direct.
- (b) On each Quarter Date, the Account Holders in respect of the Earnings Accounts shall procure that amounts standing to the credit of the Earnings Accounts are as applied as follows:
  - (i) FIRST, in payment pro rata of any unpaid fees, costs and expenses of, and any other amounts owing to, the Agent, the Security Agent, any Receiver and any Delegate under the Finance Documents;
  - (ii) SECOND, in payment of any interest due under the Finance Documents on that date; and
  - (iii) THIRD, in payment of any other amount due under the Finance Documents on that date.

**24.5 Minimum Liquidity Account**

- (a) The Borrower shall procure that at all times the amount standing to the credit of the Minimum Liquidity Account shall be an amount equal to US\$500,000 per Mortgaged Vessel (the "**Minimum Liquidity Amount**").
- (b) The Minimum Liquidity Account shall be a blocked account and the Account Holder shall not be permitted to withdraw any sums from the Minimum Liquidity Account without the prior written consent of the Agent (acting on the instructions of the Majority Lenders).

**24.6 Dry Docking Reserve Account**

- (a) The Dry Docking Reserve Account shall be a blocked account holding the Dry Docking Reserve.
- (b) Funds that have accumulated in the Dry Docking Reserve Account in respect of a particular Vessel may only be applied in respect of the Dry Docking Costs of that Vessel in accordance with Clause 24.7 (*Dry Docking Reserve*).

**24.7 Dry Docking Reserve**

- (a) In respect of each Vessel, the Borrower will provide the Agent with:
  - (i) the forecast cost of the next scheduled dry-dock of that Vessel and any anticipated compulsory modifications; and
  - (ii) the forecast free operating cashflow for that Vessel,in each case prior to the acquisition of the Vessel by the relevant Vessel Owner.
- (b) On the basis of the information supplied by the Borrower in (a) above, the Borrower and the Agent will use all reasonable endeavours to agree a monthly fixed amount to

be paid into the Dry Docking Reserve Account from Earnings with respect to that Vessel, provided that in the event that no agreement is reached:

- (i) the monthly fixed amount shall be US\$41,667 per month (the “**Monthly Contribution**”); and
  - (ii) the maximum amount to be paid into the Dry Docking Reserve Account by the Borrower in respect of the Dry Docking Costs of the relevant Vessel shall be \$1,500,000.
- (c) If the reserve for a particular Vessel which has accumulated in the Dry Docking Reserve Account with respect to the Dry Docking Costs of a Vessel (the “**First Vessel**”) is insufficient to meet the actual amount of those Dry Docking Costs, then such shortfall shall be funded by the Borrower with:
- (i) any surplus funds which have accumulated in the Dry Docking Reserve Account in respect of one or more other Vessels following completion of all intermediate or special surveys, modifications and maintenance items and payment of all anticipated Dry Docking Costs in relation to such other Vessels (the “**Other Vessels**”), provided that maximum amount that may be applied from such surplus funds towards the actual amount of the Dry Docking Costs of the First Vessel may not exceed US\$200,000; and/or
  - (ii) a Fresh Equity Injection and/or Permitted Intercompany Debt from the Ultimate Parent to the Parent which will in turn be down-streamed to the Borrower by a Fresh Equity Injection and/or Permitted Intercompany Debt and will be paid into the Dry Docking Reserve Account prior to completion of the works for the First Vessel.
- (d) Notwithstanding the above, in the event that, based on the agreed Monthly Contribution, there will be any anticipated shortfall for any Dry Docking Costs scheduled to occur within 6 months of a Permitted Acquisition, then the anticipated shortfall shall be funded by the Ultimate Parent with a Fresh Equity Injection or Permitted Intercompany Debt, such amount to be paid into the Dry Docking Reserve Account at the time of the Permitted Acquisition (the “**Initial Dry Docking Equity Contribution**”).

## 25. **Security Shortfall**

### 25.1 **Additional security**

- (a) Clause 25.1(b) applies if, at any time during the Facility Period, the Agent notifies the Borrower that the ratio (expressed as a percentage) of: (x) the aggregate of the Market Value of the Vessels subject to a Mortgage plus the aggregate value of any additional security provided pursuant to this Clause 25; to (y) the aggregate amount of the Loan then outstanding (the “**VTL Coverage**”), is less than 135% (which notification the Agent may provide at any time).
- (b) If the Agent gives the notification described in Clause 25.1(a) that the VTL Coverage is less than 135%, the Borrower shall, within thirty (30) days of such notification, at the Borrower’s option:
  - (i) give to the Security Agent other additional security in form and substance satisfactory to the Security Agent in favour of the Finance Parties for the payment of the Secured Liabilities which is either Cash held in a blocked account subject to a pledge or charge in form and substance required by the

Security Agent or, if such additional security is not Cash, then (in the opinion of the Security Agent acting in its sole discretion):

- (1) has a net realisable value (on an aggregate basis) equal to or greater than the applicable shortfall; and
- (2) is of a type which is in form and substance satisfactory to it; or

(ii) prepay the Loan but only to the extent required to eliminate the shortfall,

and provided always that any breach of this Clause 25.1 may not be remedied by the Borrower other than in accordance with sub-clauses (b)(i) and (ii).

- (c) For the avoidance of doubt, any prepayment made or Cash collateral provided in under paragraph (b) above may be funded with a Fresh Equity Injection or Permitted Intercompany Debt provided by the Ultimate Parent to the Parent and then down-streamed by the Parent to the Borrower pursuant to a Fresh Equity Injection and/or Permitted Intercompany Debt.
- (d) Clause 7 (*Prepayment and cancellation*) shall apply to prepayments under paragraph (b) above, but provided that no Prepayment Fee is payable in respect of such prepayment.
- (e) The value of any additional security provided shall in the case of Cash be the face amount of the deposit, in the case of a vessel be determined in the same manner as the Market Value of the Vessels and in the case of other security shall be determined by the Agent in its absolute discretion.

#### 25.2 Release of additional security

- (a) If at any time the Security Agent holds additional security provided under this Clause 25 and the VTL Coverage, disregarding the value of that additional security, is equal to or exceeds 154%, the Borrower may, by notice to the Agent, request the release and discharge of that additional security, provided that such request shall be accompanied by Valuations (obtained at the Borrower's cost) evidencing that the VTL Coverage is equal to or has exceeded 154% for at least 6 months.
- (b) Upon receipt by the Agent of a Borrower's request and satisfactory Valuations in accordance with paragraph (a) above, the Agent shall promptly direct the Security Agent to release and discharge the relevant additional security if no Event of Default is continuing or will result from the release and discharge of that additional security. Upon such release and discharge and, if so required by the Agent, the Borrower shall reimburse to the Agent and the Security Agent any costs and expenses payable under Clause 16.1 (*Transaction expenses*) in relation to that release and discharge.

#### 25.3 Valuation of Vessels

The Market Value of a Vessel at any time is that shown by the average of two Valuations in respect of that Vessel.

#### 25.4 Delivery of Valuations

- (a) The Borrower will, at its own cost, within 5 Business Days of 31 March and 30 September each year procure and promptly deliver to the Agent for distribution to each Lender at least two Valuations relating to each Vessel, such Valuations to be provided by Approved Brokers nominated by the Agent.

- (b) The Agent is at liberty (at the cost of the Lenders) to assess the Market Value of the Vessels at any time and at such frequency as the Agent considers necessary or desirable in its absolute discretion.
- (c) If an Event of Default is continuing or the Agent reasonably suspects that an Event of Default has occurred and is continuing, the Agent is at liberty to assess the Market Value of the Vessels at any time, and any such Valuations will be at the Borrower's cost.

**25.5 Valuations Binding**

Any Valuation under Clause 25.3 (*Valuation of Vessels*) shall be binding and conclusive as regards the Borrower, as shall any valuation which the Agent makes of any additional security pursuant to Clause 25.1(e).

**25.6 Provision of Information**

Each Vessel Owner shall promptly provide (or procure the provision to, as the case may be) the Agent and any shipbroker acting under Clause 25.3 (*Valuation of Vessels*) or in relation to a Valuation with any information which the Agent or the shipbroker may reasonably require for the purposes of such Valuation; and, if that Vessel Owner fails to provide the information by the dates specified in the request, such Valuation will be made on any basis and assumptions which the Agent (or the shipbroker or expert appointed by it) considers prudent.

**25.7 Payment of Valuation Expenses**

Except as otherwise provided in Clause 25.4, the Transaction Obligors shall, on demand, as a joint and several obligation, pay the Agent the amount of the fees and expenses of any shipbroker or expert instructed by the Agent under this Clause 25 (*Security Shortfall*) and all legal and other expenses incurred by the Agent in connection with any matter arising out of this Clause 25 (*Security Shortfall*).

**26. Events of Default**

Each of the events or circumstances set out in this Clause 26 is an Event of Default (save for Clause 26.25 (*Acceleration*) and Clause 26.27 (*Approved Manager*)).

**26.1 Non-payment**

An Obligor does not pay on the due date any amount payable pursuant to a Finance Document at the place and in the currency in which it is expressed to be payable unless its failure to pay is caused by either (i) an administrative or technical error or (ii) a Disruption Event, and, in either event, is paid within four (4) Business Days of its due date.

**26.2 Other Specific Obligations**

- (a) Any requirement of Clause 20 (*Financial covenants*) is not satisfied.
- (b) An Obligor does not comply with Clause 25.1 (*Additional security*).
- (c) The obligatory insurances of a Vessel are not placed and kept in full force and effect in accordance with Clause 22.20 (*Insurance Undertakings*), provided that no Event of Default under this paragraph (c) will occur if the failure to comply is capable of remedy and is remedied within ten (10) Business Days of the earlier of (i) the Agent giving notice to the Borrower and (ii) any Obligor becoming aware of the failure to comply.

- (d) Any budget is not approved by the Agent in accordance with the provisions of Clause 19.4(a) (*Budgets and Report on Operating Expenses and G&A Expenses*).

26.3 **Other Obligations**

- (a) An Obligor does not comply with any provision of the Finance Documents (other than those referred to in Clause 26.1 (*Non-payment*), Clause 26.2, (*Other Specific Obligations*), and Clause 26.24 (*Sanctions*).
- (b) No Event of Default under paragraph (a) above will occur if the failure to comply is capable of remedy and is remedied within ten (10) Business Days (or, in the case of any failure to comply with Clauses 19.1 (*Financial statements*), 19.2 (*Compliance Certificates*) or 19.3 (*Requirements as to financial statements*), five (5) Business Days) of the earlier of (i) the Agent giving notice to the Borrower and (ii) any Obligor becoming aware of the failure to comply.

26.4 **Misrepresentation**

- (a) Any representation or statement made or deemed to be made by an Obligor in the Finance Documents or any other document delivered by or on behalf of any Obligor under or in connection with any Finance Document is or proves to have been incorrect or misleading in any material respect when made or deemed to be made.
- (b) Only with respect to any Repeating Representations repeated on the first day of each Interest Period pursuant to Clause 18.32(b) (*Times when representations are made*), no Event of Default under paragraph (a) above will occur if the failure to comply is capable of remedy and the circumstance giving rise to such Event of Default are remedied within ten (10) Business Days of the earlier of (i) the Agent giving notice to the Borrower and (ii) any Obligor becoming aware of the failure to comply.

26.5 **Cross default**

- (a) Any Financial Indebtedness of any member of the Group (excluding GSLS):
  - (i) is not paid when due nor within any originally applicable grace period; or
  - (ii) is declared to be, or otherwise becomes, due and payable prior to its specified maturity as a result of an event of default (however described);
  - (iii) is capable of being declared by a creditor to be due and payable prior to its specified maturity as a result of such an event.
- (b) In respect of the Ultimate Parent, no Event of Default shall occur under paragraph (a) above unless the aggregate amount of Financial Indebtedness is more than US\$25,000,000 or its equivalent in any other currency.

26.6 **Insolvency**

- (a) Any Obligor is unable or admits inability to pay its debts as they fall due, is deemed to, or is declared to, be unable to pay its debts under applicable law, ceases or suspends or threatens to cease or suspend making payments on any of its debts, or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness.
- (b) The value of the assets of any Obligor is less than its liabilities (taking into account contingent and prospective liabilities).



- (c) A moratorium is declared in respect of any indebtedness of any Obligor. If a moratorium occurs, the ending of the moratorium will not remedy any Event of Default covered by that moratorium.
- (d) Paragraphs (a) to (c) above shall not apply to in relation to any Approved Manager which is a Subsidiary of the Ultimate Parent, provided that a replacement third party Approved Manager is appointed in accordance with this Agreement within ten (10) Business Days of the relevant insolvency event.

#### 26.7 **Insolvency proceedings**

- (a) Any corporate action, legal proceedings or other procedure or step is taken in relation to:
  - (i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any Obligor;
  - (ii) a composition, compromise, assignment or arrangement with any creditor of any Obligor;
  - (iii) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager, provisional supervisor or other similar officer in respect of any Obligor or any of its assets; or
  - (iv) enforcement of any Security over any assets of any Obligor,or any analogous procedure or step is taken in any jurisdiction.
- (b) Paragraph (a) above shall not apply to any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within ten (10) Business Days of commencement.
- (c) Paragraphs (a) and (b) above shall not apply in relation to any Approved Manager which is a Subsidiary of the Ultimate Parent, provided that a replacement third party Approved Manager is appointed in accordance with this Agreement within ten (10) Business Days of the relevant insolvency event.

#### 26.8 **Creditors' process**

- (a) Any expropriation, attachment, sequestration, distress or execution affects any asset or assets of any Obligor and is not discharged within fifteen (15) Business Days.
- (b) Paragraph (a) above shall not apply in relation to any Approved Manager which is a Subsidiary of the Ultimate Parent, provided that a replacement third party Approved Manager is appointed in accordance with this Agreement within ten (10) Business Days of the relevant insolvency event.

#### 26.9 **Unlawfulness and invalidity**

- (a) It is or becomes unlawful for any Obligor to perform any of its obligations under the Finance Documents or any Transaction Security created or expressed to be created or evidenced by the Security Documents ceases to be effective or any subordination created under a Finance Document is or becomes unlawful.

- (b) Any obligation or obligations of any Obligor under any Finance Documents are not (subject to the Legal Reservations) or cease to be legal, valid, binding, or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of the Finance Parties under the Finance Documents.
- (c) Any Finance Document ceases to be in full force and effect or any Transaction Security created or expressed to be created by the Security Documents or any subordination created expressed to be created under the Finance Documents ceases to be legal, valid, binding, enforceable, or effective or is alleged by a party to it (other than a Finance Party) to be ineffective.
- (d) Any Transaction Security proves to have ranked after or lost its priority to any other Security (other than Permitted Security).

**26.10 Cessation of business**

- (a) Any Obligor ceases, or threatens to cease, to carry on business except as a result of any disposal allowed under this Agreement.
- (b) Paragraph (a) above shall not apply to the cessation of business of an Approved Manager which is a Subsidiary of the Ultimate Parent provided that a replacement Approved Manager is appointed in accordance with this Agreement within ten (10) Business Days.

**26.11 Expropriation**

The authority or ability of any Obligor to conduct its business is limited or is wholly or substantially curtailed by seizure, expropriation, nationalisation, intervention, restriction or other action by or on behalf of any government or agency in relation to an Obligor or any of its assets.

**26.12 Repudiation and rescission of agreements**

Any Obligor rescinds or purports to rescind or repudiates or purports to repudiate a Finance Document, a Relevant Document, or any of the Transaction Security or evidences an intention to rescind or repudiate a Finance Document, a Relevant Document, or any Transaction Security.

**26.13 Conditions subsequent**

Any of the conditions referred to in Clause 4.4 (*Conditions subsequent*) is not satisfied within the time reasonably required by the Agent.

**26.14 Revocation or modification of Authorisation**

Any authorisation of any governmental, judicial or other public body or authority which is now, or which at any time during the Facility Period becomes, necessary to enable any of the Obligors to comply with any of their obligations under any Relevant Document is not obtained, is revoked, suspended, withdrawn, or withheld, or is modified in a manner which the Agent considers is, or may be, prejudicial to the interests of any Finance Party, or ceases to remain in full force and effect.

**26.15 Reduction of capital**

A Transaction Obligor other than the Ultimate Parent reduces its authorised or issued or subscribed capital.

**26.16 Loss of Vessel**

A Vessel suffers a Total Loss or is otherwise destroyed or abandoned, or a similar event occurs in relation to any other vessel which may from time to time be mortgaged to the Security Agent as security for the payment of all or any part of the Indebtedness, except that a Total Loss shall not be an Event of Default if:

- (a) that Vessel is insured in accordance with the Security Documents and a claim for Total Loss is available under the terms of the relevant insurances; and
- (b) no insurer has refused to meet or has disputed the claim for Total Loss and it is not apparent to the Agent acting reasonably that any such refusal or dispute is likely to occur; and
- (c) payment of all insurance proceeds in respect of the Total Loss is made in full to the Security Agent within one hundred and thirty (130) days of the occurrence of the casualty giving rise to the Total Loss in question or such longer period as the Agent may in its discretion agree.

**26.17 Challenge to registration**

The registration of a Vessel or a Mortgage is contested or becomes void or voidable or liable to cancellation or termination, or the validity or priority of a Mortgage is contested.

**26.18 Classification and regulatory approvals**

The classification certificate of a Vessel is withdrawn by a Classification Society or a Vessel ceases to be classified with a Classification Society for any reason.

**26.19 War**

The country of registration of a Vessel becomes involved in war (whether or not declared) or civil war or is occupied by any other power and the Agent in its discretion (but acting reasonably) considers that, as a result, the security conferred by any of the Security Documents is materially prejudiced.

**26.20 Notice of determination**

A Guarantor gives notice to the Security Agent to determine any obligations under a Guarantee.

**26.21 Vessel Defaults**

- (a) A Vessel is arrested, detained, seized, impounded in exercise or purported exercise of any possessory lien or other claim or interest and a Vessel is not released within fifteen (15) Business Days of the occurrence of the same.
- (b) There is a default by any charterer under any Charter, where such default shall, in the reasonable opinion of the Agent, have a Material Adverse Effect; or, subject to Clause 21.22(a)(ii) and Clause 22.14(b), there is any material amendment to a Charter without the Agent's (acting on the instructions of the Lenders) prior written consent.

- (c) Any term of a Management Agreement is breached or any Management Agreement is terminated (whether or not in accordance with its terms) which breach or termination shall, in the reasonable opinion of the Agent, have a Material Adverse Effect.

**26.22 Litigation**

- (a) Any litigation, arbitration or administrative or investigative proceedings of or before any court, arbitral body, agency or authority have been commenced against any Obligor which are (in the opinion of the Majority Lenders):
  - (i) reasonably likely to be adversely determined; and
  - (ii) if adversely determined, would have or is reasonably likely to have a Material Adverse Effect.
- (b) In respect of the Ultimate Parent, no Event of Default shall occur under paragraph (a) above unless the aggregate amount of the claim is more than US\$5,000,000 or its equivalent in any other currency.

**26.23 Material adverse change**

Any event or circumstance occurs which, in the reasonable opinion of the Majority Lenders, has or is reasonably likely to have a Material Adverse Effect.

**26.24 Sanctions**

- (a) Any of the Obligors, any member of the Group or any of their Subsidiaries becomes a Restricted Party or becomes owned or controlled by, or acts directly or indirectly on behalf of, a Restricted Party or any of such persons becomes the owner or controller of a Restricted Party.
- (b) Any proceeds of the Loan are made available, directly or indirectly, to fund any trade, business or other activities involving or for the benefit of a Restricted Person or in any country, or territory, that, at the time of such funding, is a Sanctioned Country or otherwise is, directly or indirectly, applied in a manner that would result in a violation of Sanctions by any Finance Party or any Obligor or for any purpose prohibited by Sanctions.
- (c) Any of the Obligors or any of their Subsidiaries takes any action resulting in a violation by such persons of Sanctions or which constitutes or would constitute any such violation by a Finance Party or any Obligor.

**26.25 Subordination and Assignment Agreement**

- (a) Any party to a Subordination and Assignment Agreement (other than a Finance Party) fails to comply with the provisions of, or does not perform its obligations under, such Subordination and Assignment Agreement.
- (b) A representation or warranty given by any party to a Subordination and Assignment Agreement (other than a Finance Party) is or proves to have been incorrect or misleading when made or deemed to be made.

**26.26 Acceleration**

On and at any time after the occurrence of an Event of Default which is continuing the Agent may, and shall if so directed by the Majority Lenders:

- (a) by notice to the Borrower, cancel the Total Commitments, at which time they shall immediately be cancelled, provided that in the case of an Event of Default under either of Clauses 26.6 (*Insolvency*) and 26.7 (*Insolvency Proceedings*) the Total Commitments shall be deemed immediately cancelled without notice or demand therefor; and/or
- (b) by notice to the Borrower, declare that all or part of the Loan, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents are immediately due and payable, provided that in the case of an Event of Default under either of Clauses 26.6 (*Insolvency*) and 26.7 (*Insolvency Proceedings*) the Loan, together with accrued interest and all other amounts accrued or outstanding under the Finance Documents shall be deemed immediately due and payable without notice or demand therefor; and/or
- (c) by notice to the Borrower, declare that all or part of the Loan is payable on demand, at which time all or part of the Loan (as the case may be) shall immediately become payable on demand by the Agent on the instructions of the Majority Lenders; and/or
- (d) declare that no withdrawal may be made from any Account; and/or
- (e) exercise or direct the Security Agent to exercise any or all of its rights, remedies, powers, or discretions under the Finance Documents.

26.27 **Approved Managers**

Without prejudice to Clause 26.26 (*Acceleration*), the Borrower will, at the request of the Agent, at any time when an Insolvency Event has occurred in respect of an Approved Manager, promptly (and in any event within ten (10) Business Days) replace (or procure the replacement of) such Approved Manager appointed by the Borrower in relation to any Vessel with another Approved Manager on terms approved by the Agent (acting on the instructions of the Majority Lenders) as appropriate.

27. **Changes to the Lenders**

27.1 **Assignments and transfers by the Lenders**

Subject to this Clause 27, a Lender (the “**Existing Lender**”) may:

- (a) assign any of its rights; or
- (b) transfer by novation any of its rights and obligations,

under the Finance Documents, to another bank or financial institution or to a trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets (the “**New Lender**”).

27.2 **Conditions of assignment or transfer**

- (a) The consent of the Borrower is required for an assignment, a transfer or a sub-participation which grants voting rights by an Existing Lender to any Loan to Own Investor, unless the assignment, transfer or sub-participation is made at a time when an Event of Default is continuing.
- (b) The consent of the Borrower referred to in paragraph (a) above must not be unreasonably withheld or delayed. The Borrower will be deemed to have given its

consent five (5) Business Days after the Existing Lender has requested it unless consent is expressly refused by the Borrower within that time.

- (c) An assignment will only be effective on:
  - (i) receipt by the Agent (whether in the Assignment Agreement or otherwise) of written confirmation from the New Lender (in form and substance satisfactory to the Agent) that the New Lender will assume the same obligations to the other Finance Parties as it would have been under if it was an Original Lender; and
  - (ii) performance by the Agent of all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to such assignment to a New Lender, the completion of which the Agent shall promptly notify to the Existing Lender and the New Lender.
- (d) A transfer will only be effective if the procedure set out in Clause 27.5 (*Procedure for transfer*) is complied with.
- (e) If:
  - (i) a Lender assigns or transfers any of its rights or obligations under the Finance Documents or changes its Facility Office; and
  - (ii) as a result of circumstances existing at the date the assignment, transfer or change occurs, an Obligor would be obliged to make a payment to the New Lender or Lender acting through its new Facility Office under Clause 12 (*Tax gross up and indemnities*) or Clause 13 (*Increased costs*),

then the New Lender or Lender acting through its new Facility Office is only entitled to receive payment under those Clauses to the same extent as the Existing Lender or Lender acting through its previous Facility Office would have been if the assignment, transfer or change had not occurred.

- (f) Each New Lender, by executing the relevant Transfer Certificate or Assignment Agreement, confirms, for the avoidance of doubt, that the Agent has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the requisite Lender or Lenders in accordance with this Agreement on or prior to the date on which the transfer or assignment becomes effective in accordance with this Agreement and that it is bound by that decision to the same extent as the Existing Lender would have been had it remained a Lender.

#### 27.3 **Assignment or transfer fee**

The New Lender shall, on the date upon which an assignment or transfer takes effect, pay to the Agent (for its own account) a fee of US\$5,000.

#### 27.4 **Limitation of responsibility of Existing Lenders**

- (a) Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:
  - (i) the legality, validity, effectiveness, adequacy or enforceability of the Finance Documents or any other documents;
  - (ii) the financial condition of any Obligor;

- (iii) the performance and observance by any Obligor of its obligations under the Finance Documents or any other documents; or
- (iv) the accuracy of any statements (whether written or oral) made in or in connection with any Finance Document or any other document,

and any representations or warranties implied by law are excluded.

- (b) Each New Lender confirms to the Existing Lender and the other Finance Parties that it:
  - (i) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of each Obligor and its Affiliates in connection with its participation in this Agreement and has not relied exclusively on any information provided to it by the Existing Lender in connection with any Finance Document; and
  - (ii) will continue to make its own independent appraisal of the creditworthiness of each Obligor and its Affiliates whilst any amount is or may be outstanding under the Finance Documents or any Commitment is in force.
- (c) Nothing in any Finance Document obliges an Existing Lender to:
  - (i) accept a re-transfer or re-assignment from a New Lender of any of the rights and obligations assigned or transferred under this Clause 27; or
  - (ii) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by any Obligor of its obligations under the Finance Documents or otherwise.

#### 27.5 Procedure for transfer

- (a) Subject to the conditions set out in Clause 27.2 (*Conditions of assignment or transfer*) a transfer is effected in accordance with paragraph (c) below when the Agent executes an otherwise duly completed Transfer Certificate delivered to it by the Existing Lender and the New Lender. The Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Transfer Certificate appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Transfer Certificate.
- (b) The Agent shall only be obliged to execute a Transfer Certificate delivered to it by the Existing Lender and the New Lender once it is satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to the transfer to such New Lender.
- (c) Subject to Clause 27.9 (*Pro rata interest settlement*), on the Transfer Date:
  - (i) to the extent that in the Transfer Certificate the Existing Lender seeks to transfer by novation its rights and obligations under the Finance Documents, each of the Obligors who are parties and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and their respective rights against one another under the Finance Documents shall be cancelled (being the “**Discharged Rights and Obligations**”);
  - (ii) each of the Obligors who are parties and the New Lender shall assume obligations towards one another and/or acquire rights against one another

which differ from the Discharged Rights and Obligations only insofar as that Obligor and the New Lender have assumed and/or acquired the same in place of that Obligor and the Existing Lender;

- (iii) the Agent, the New Lender and other Lenders shall acquire the same rights and assume the same obligations between themselves as they would have acquired and assumed had the New Lender been an Original Lender with the rights and/or obligations acquired or assumed by it as a result of the transfer and to that extent the Agent and the Existing Lender shall each be released from further obligations to each other under the Finance Documents; and
- (iv) the New Lender shall become a Party as a “Lender”.

#### 27.6 Procedure for assignment

- (a) Subject to the conditions set out in Clause 27.2 (*Conditions of assignment or transfer*) an assignment may be effected in accordance with paragraph (c) below when the Agent executes an otherwise duly completed Assignment Agreement delivered to it by the Existing Lender and the New Lender. The Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Assignment Agreement appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Assignment Agreement.
- (b) The Agent shall only be obliged to execute an Assignment Agreement delivered to it by the Existing Lender and the New Lender once it is satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to the assignment to such New Lender.
- (c) Subject to Clause 27.9 (*Pro rata interest settlement*), on the Transfer Date:
  - (i) the Existing Lender will assign absolutely to the New Lender the rights under the Finance Documents expressed to be the subject of the assignment in the Assignment Agreement;
  - (ii) the Existing Lender will be released by each Obligor who is a party and the other Finance Parties from the obligations owed by it (the “**Relevant Obligations**”) and expressed to be the subject of the release in the Assignment Agreement; and
  - (iii) the New Lender shall become a Party as a “Lender” and will be bound by obligations equivalent to the Relevant Obligations.
- (d) The Lenders may utilise procedures other than those set out in this Clause (d) to assign their rights under the Finance Documents (but not, without the consent of the relevant Obligor or unless in accordance with Clause 27.5 (*Procedure for transfer*), to obtain a release by that Obligor from the obligations owed to that Obligor by the Lenders nor the assumption of equivalent obligations by a New Lender) provided that they comply with the conditions set out in Clause 27.2 (*Conditions of assignment or transfer*).

#### 27.7 Copy of Transfer Certificate or Assignment Agreement to Borrower

The Agent shall, as soon as reasonably practicable after it has executed a Transfer Certificate or an Assignment Agreement, send to the Borrower a copy of that Transfer Certificate or Assignment Agreement.



## 27.8 Security over Lenders' rights

In addition to the other rights provided to Lenders under this Clause 27, each Lender may without consulting with or obtaining consent from any Obligor, at any time charge, assign or otherwise create Security in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of that Lender including, without limitation:

- (a) any charge, assignment or other Security to secure obligations to a federal reserve or central bank; and
- (b) in the case of any Lender which is a fund, any charge, assignment or other Security granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities, except that no such charge, assignment or Security shall:
  - (i) release a Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or Security for the Lender as a party to any of the Finance Documents; or
  - (ii) require any payments to be made by an Obligor other than or in excess of, or grant to any person any more extensive rights than, those required to be made or granted to the relevant Lender under the Finance Documents.

## 27.9 Pro rata interest settlement

If the Agent has notified the Lenders that it is able to distribute interest payments on a "pro rata basis" to Existing Lenders and New Lenders then (in respect of any transfer pursuant to Clause 27.5 (*Procedure for transfer*) or any assignment pursuant to Clause 27.6 (*Procedure for assignment*) the Transfer Date of which, in each case, is after the date of such notification and is not on the last day of an Interest Period):

- (a) any interest or fees in respect of the relevant participation which are expressed to accrue by reference to the lapse of time shall continue to accrue in favour of the Existing Lender up to but excluding the Transfer Date ("**Accrued Amounts**") and shall become due and payable to the Existing Lender (without further interest accruing on them) on the last day of the current Interest Period (or, if the Interest Period is longer than 6 months, on the next of the dates which falls at 6 monthly intervals after the first day of that Interest Period); and
- (b) the rights assigned or transferred by the Existing Lender will not include the right to the Accrued Amounts, so that, for the avoidance of doubt:
  - (i) when the Accrued Amounts become payable, those Accrued Amounts will be payable to the Existing Lender; and
  - (ii) the amount payable to the New Lender on that date will be the amount which would, but for the application of this Clause 27.9, have been payable to it on that date, but after deduction of the Accrued Amounts.

28. **Changes to the Obligors**

28.1 **Assignment and transfers by Obligors**

No Obligor may assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

28.2 **Additional Vessel Owners**

- (a) The Borrower shall procure that each Additional Vessel Owner shall be a special purpose vehicle incorporated in Hong Kong or the Marshall Islands (or such other jurisdiction acceptable to the Agent acting on the instructions of the Majority Lenders) established for the purpose of purchasing, owning, chartering and operating the relevant Additional Vessel and which has not previously owned any assets, incurred any liabilities (other than, in the case of an Additional Vessel Owner which is a Dormant Company, the liabilities described in Clause 21.13(d) (*No other business*)) or engaged in any activities.
- (b) Subject to compliance with the provisions of paragraphs (c) and (d) of Clause 19.8 (“*Know your customer*” checks), each Additional Vessel Owner shall accede to this Agreement and the Subordination and Assignment Agreement by delivery to the Agent of a duly completed and executed Accession Letter, provided that:
  - (i) such accession is contemporaneous with service of a Utilisation Notice;
  - (ii) no Default is continuing or would occur as a result of the Additional Vessel Owner acceding to this Agreement as a Vessel Owner; and
  - (iii) the Agent has received all of the documents and other evidence listed in Part III of Schedule 2 (*Conditions Precedent Required to be Delivered by each Additional Vessel Owner*) in relation to the Additional Vessel Owner, each in form and substance satisfactory to the Agent.
- (c) The Agent shall notify the Borrower and the Lenders promptly upon being satisfied that it has received (in form and substance satisfactory to it) all the documents and other evidence listed in Part III of Schedule 2 (*Conditions Precedent Required to be Delivered by each Additional Vessel Owner*).
- (d) Other than to the extent that the Majority Lenders notify the Agent in writing to the contrary before the Agent gives the notification described in paragraph (b) above, the Lenders authorise (but do not require) the Agent to give that notification. The Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.

28.3 **Repetition of Representations**

Delivery of an Accession Letter constitutes confirmation by the relevant Additional Vessel Owner that the Repeating Representations are true and correct in relation to it as at the date of delivery as if made by reference to the facts and circumstances then existing.

29. **Role of the Agent and the Security Agent**

29.1 **The Agent and the Security Agent**

- (a) Each of the Finance Parties appoints the Agent to act as its agent under and in connection with the Finance Documents.

- (b) The Security Agent declares that it holds the Security Property on trust for the Secured Parties on the terms contained in this Agreement.
- (c) Each of the Finance Parties authorises the Agent and the Security Agent:
  - (i) to exercise the rights, powers, authorities and discretions specifically given to the Agent and the Security Agent (as applicable) under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions; and
  - (ii) to execute each of the Security Documents and all other documents approved by the Majority Lenders or all Lenders (as the case may be) for execution by it.
- (d) Each of the Lenders irrevocably appoints the Security Agent as trustee on its behalf with regard to (i) the security, powers, rights, titles, benefits and interests (both present and future) constituted by and conferred on the Finance Parties or any of them or for the benefit thereof under or pursuant to this Agreement, or any of the Finance Documents (including, without limitation, the benefit of all covenants, undertakings, representations, warranties and obligations given, made or undertaken to any Finance Party in this Agreement, or any Finance Document), (ii) all moneys, property and other assets paid or transferred to or vested in any Finance Party or any agent of any Finance Party or received or recovered by any Finance Party or any agent of any Finance Party pursuant to, or in connection with, this Agreement or the Finance Documents whether from any Obligor or any other person and (iii) all money, investments, property and other assets at any time representing or deriving from any of the foregoing, including all interest, income and other sums at any time received or receivable by any Finance Party or any agent of any Finance Party in respect of the same (or any part thereof).

#### 29.2 Enforcement through Security Agent only

The Secured Parties shall not have any independent power to enforce, or have recourse to, any of the Transaction Security or to exercise any right, power, authority or discretion arising under the Security Documents except through the Security Agent.

#### 29.3 Instructions

- (a) Each of the Agent and the Security Agent shall:
  - (i) unless a contrary indication appears in a Finance Document, exercise or refrain from exercising any right, power, authority or discretion vested in it as Agent or Security Agent (as applicable) in accordance with any instructions given to it by:
    - (1) all Lenders if the relevant Finance Document stipulates the matter is an all Lender decision; and
    - (2) in all other cases, the Majority Lenders; and
  - (ii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with paragraph (1) above (or, if this Agreement stipulates the matter is a decision for any other Finance Party or group of Finance Parties, from that Finance Party or group of Finance Parties).

- (b) Each of the Agent and the Security Agent shall be entitled to request instructions, or clarification of any instruction, from the Majority Lenders (or, if the relevant Finance Document stipulates the matter is a decision for any other Finance Party or group of Finance Parties, from that Finance Party or group of Finance Parties) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Agent or Security Agent (as applicable) may refrain from acting unless and until it receives those instructions or that clarification.
- (c) Save in the case of decisions stipulated to be a matter for any other Finance Party or group of Finance Parties under the relevant Finance Document and unless a contrary indication appears in a Finance Document, any instructions given to the Agent or Security Agent (as applicable) by the Majority Lenders shall override any conflicting instructions given by any other Parties and will be binding on all Finance Parties.
- (d) Paragraph (c) above shall not apply:
- (i) where a contrary indication appears in a Finance Document;
  - (ii) where a Finance Document requires the Agent or the Security Agent to act in a specified manner or to take a specified action;
  - (iii) in respect of any provision which protects the Agent's or Security Agent's own position in its personal capacity as opposed to its role of Agent or Security Agent for the relevant Finance Parties or Secured Parties (as applicable) including, without limitation, Clause 29.5 (*No fiduciary duties*) to Clause 29.10 (*Exclusion of liability*), Clause 29.13 (*Confidentiality*) to Clause 29.20 (*Custodians and nominees*) and Clause 29.23 (*Acceptance of title*) to Clause 29.27 (*Disapplication of Trustee Acts*);
  - (iv) in respect of the exercise of the Security Agent's discretion to exercise a right, power or authority under any of:
    - (1) Clause 30.1 (*Application of Receipts – Security Agent*);
    - (2) Clause 30.3 (*Prospective liabilities*); and
    - (3) Clause 30.2 (*Deductions from receipts*).
- (e) If giving effect to instructions given by the Majority Lenders would (in the Agent's or (as applicable) the Security Agent's opinion) have an effect equivalent to an amendment or waiver referred to in Clause 39 (*Remedies and waivers*), the Agent or (as applicable) Security Agent shall not act in accordance with those instructions unless consent to it so acting is obtained from each Party (other than the Agent or Security Agent) whose consent would have been required in respect of that amendment or waiver.
- (f) In exercising any discretion to exercise a right, power or authority under the Finance Documents where either:
- (i) it has not received any instructions as to the exercise of that discretion; or
  - (ii) the exercise of that discretion is subject to paragraph (d)(iv) above,
- the Agent or Security Agent shall do so having regard to the interests of (in the case of the Agent) all the Finance Parties and (in the case of the Security Agent) all the Secured Parties.

- (g) The Agent or the Security Agent (as applicable) may refrain from acting in accordance with any instructions of any Finance Party or group of Finance Parties until it has received any indemnification and/or security that it may in its discretion require (which may be greater in extent than that contained in the Finance Documents and which may include payment in advance) for any cost, loss or liability (together with any applicable VAT) which it may incur in complying with those instructions.
- (h) Without prejudice to the remainder of this Clause 29.3 (*Instructions*), in the absence of instructions, each of the Agent and the Security Agent may act (or refrain from acting) as it considers to be in the best interest of (in the case of the Agent) the Finance Parties and (in the case of the Security Agent) the Secured Parties.
- (i) Neither the Agent nor the Security Agent is authorised to act on behalf of a Finance Party (without first obtaining that Finance Party's consent) in any legal or arbitration proceedings relating to any Finance Document. This paragraph (i) shall not apply to any legal or arbitration proceeding relating to the perfection, preservation or protection of rights under the Security Documents or enforcement of the Security or Security Documents.

29.4 **Duties of the Agent and Security Agent**

- (a) The duties of the Agent and the Security Agent under the Finance Documents are solely mechanical and administrative in nature.
- (b) Subject to paragraph (c) below, each of the Agent and the Security Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Agent or Security Agent (as applicable) for that Party by any other Party.
- (c) Without prejudice to Clause 27.7 (*Copy of Transfer Certificate or Assignment Agreement to*), paragraph (b) above shall not apply to any Transfer Certificate or any Assignment Agreement.
- (d) Except where a Finance Document specifically provides otherwise, neither the Agent nor the Security Agent is obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (e) If the Agent or the Security Agent receives notice from a Party referring to any Finance Document, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the other Finance Parties.
- (f) If the Agent is aware of the non-payment of any principal, interest, Commitment Fee or other fee payable to a Finance Party (other than the Agent, or the Security Agent) under this Agreement, it shall promptly notify the other Finance Parties.
- (g) Each of the Agent and the Security Agent shall have only those duties, obligations and responsibilities expressly specified in the Finance Documents to which it is expressed to be a party (and no others shall be implied).

29.5 **No fiduciary duties**

- (a) Nothing in any Finance Document constitutes:
  - (i) the Agent as a trustee or fiduciary of any other person; or
  - (ii) the Security Agent as an agent, trustee or fiduciary of any Obligor.

- (iii) Neither the Agent nor the Security Agent shall be bound to account to any other Finance Party or (in the case of the Security Agent) any Secured Party or the profit element of any sum received by it for its own account.
- (iv) The provisions of this Clause 29.5 shall apply even if, notwithstanding and contrary to this Clause 29.5, any provision of any Finance Document by operation of law has the effect of constituting the Agent as a true or fiduciary of any person, or the Security Agent as an agent, trustee or fiduciary of any Obligor or otherwise requiring the Agent, the Security Agent or the Arrange to account to any other Finance Party or Secured Party (as the case may be).

**29.6 Business with the Group**

The Agent and the Security Agent may accept deposits from, lend money to and generally engage in any kind of banking or other business with any Obligor or any Affiliate of an Obligor.

**29.7 Rights and discretions**

- (a) Each of the Agent and the Security Agent may:
  - (i) rely on any representation, communication, notice or document believed by it to be genuine, correct and appropriately authorised;
  - (ii) assume that:
    - (1) any instructions received by it from the Majority Lenders, any Finance Parties or any group of Finance Parties are duly given in accordance with the terms of the Finance Documents; and
    - (2) unless it has received notice of revocation, that those instructions have not been revoked; and
    - (3) rely on a certificate from any person:
      - a. as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or
      - b. to the effect that such person approves of any particular dealing, transaction, step, action or thing,as sufficient evidence that that is the case and, in the case of paragraph a above, may assume the truth and accuracy of that certificate.
- (b) Each of the Agent and the Security Agent may assume (unless it has received notice to the contrary in its capacity as agent or Security Agent for the Finance Parties or Secured Parties) that:
  - (i) no Default has occurred (unless, in the case of the Agent, it has actual knowledge of a Default arising under Clause 26.1 (*Non-payment*));
  - (ii) any right, power, authority or discretion vested in any Party or any group of Finance Parties has not been exercised; and

- (iii) any notice or request made by an Obligor (other than the Utilisation Request) is made on behalf of and with the consent and knowledge of all the Obligors who are parties.
- (c) Each of the Agent and the Security Agent may engage and pay for the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts.
- (d) Without prejudice to the generality of paragraph (c) above or paragraph (e) below, each of the Agent and the Security Agent may at any time engage and pay for the services of any lawyers to act as independent counsel to the Agent or Security Agent (as applicable), (and so separate from any lawyers instructed by the Lenders) if the Agent or Security Agent (as applicable), in its reasonable opinion deems this to be desirable.
- (e) Each of the Agent and the Security Agent may rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Agent or by the Security Agent or by any other Party) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.
- (f) Each of the Agent and the Security Agent may act in relation to the Finance Documents and the Security Property through its officers, employees and agents and shall not:
  - (i) be liable for any error of judgment made by any such person; or
  - (ii) be bound to supervise, or be in any way responsible for any loss incurred by reason of misconduct, omission or default on the part, of any such person,unless such error or such loss was directly caused by the Agent's or the Security Agent's (as applicable) gross negligence or wilful misconduct.
- (g) Unless a Finance Document expressly provides otherwise each of the Agent and the Security Agent may disclose to any other Party any information it reasonably believes it has received as agent or Security Agent under the Finance Documents.
- (h) Without prejudice to the generality of paragraph (g) above, the Agent:
  - (i) may disclose; and
  - (ii) on the written request of the Borrower or the Majority Lenders shall, as soon as reasonably practicable, disclose, the identity of a Defaulting Lender to the Borrower and to the other Finance Parties.
- (i) Notwithstanding any other provision of any Finance Document to the contrary, neither the Agent nor the Security Agent is obliged to do or omit to do anything if it would, or might in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.
- (j) The Agent is not obliged to disclose to any Finance Party any details of the rate notified to the Agent by any Lender or the identity of any such Lender for the purpose of paragraph (a)(ii) of Clause 10.2 (*Market disruption*).

- (k) Notwithstanding any provision of any Finance Document to the contrary, neither the Agent nor the Security Agent is obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.

**29.8 Responsibility for documentation**

Neither the Agent nor the Security Agent, is responsible or liable for:

- (a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Agent, the Security Agent, an Obligor or any other person in or in connection with any Finance Document or the transactions contemplated in the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document or the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Security Property; or
- (c) any determination as to whether any information provided or to be provided to any Finance Party or Secured Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

**29.9 No duty to monitor**

Neither, the Agent nor the Security Agent shall be bound to enquire:

- (a) whether or not any Default has occurred;
- (b) as to the performance, default or any breach by any Party of its obligations under any Finance Document; or
- (c) whether any other event specified in any Finance Document has occurred.

**29.10 Exclusion of liability**

- (a) Without limiting paragraph (b) below (and without prejudice to any other provision of any Finance Document excluding or limiting the liability of the Agent, the Security Agent or any Receiver or Delegate), none of the Agent, the Security Agent nor any Receiver or Delegate will be liable (including, without limitation, for negligence or any other category of liability whatsoever) for:
  - (i) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with any Finance Document or the Security Property, unless directly caused by its gross negligence or wilful misconduct;
  - (ii) exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with, any Finance Document, the Security Property or any other agreement, arrangement or document entered into, made or



executed in anticipation of, under or in connection with, any Finance Document or the Security Property;

- (iii) any shortfall which arises on the enforcement or realisation of the Security Property; or
- (iv) without prejudice to the generality of paragraphs (i) to (iii) above, any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of:
  - (1) any act, event or circumstance not reasonably within its control; or
  - (2) the general risks of investment in, or the holding of assets in, any jurisdiction,

including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of: nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets (including any Disruption Event); breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of god; war, terrorism, insurrection or revolution; or strikes or industrial action.

- (b) No Party (other than the Agent, the Security Agent, that Receiver or that Delegate (as applicable)) may take any proceedings against any officer, employee or agent of the Agent, the Security Agent, a Receiver or a Delegate, in respect of any claim it might have against the Agent, the Security Agent, a Receiver or a Delegate or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document or any Security Property and any officer, employee or agent of the Agent, the Security Agent, a Receiver or a Delegate may rely on this Clause.
- (c) Neither the Agent nor the Security Agent will be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by the Agent or the Security Agent (as applicable) if the Agent or Security Agent (as applicable) has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Agent or the Security Agent (as applicable) for that purpose.
- (d) Nothing in this Agreement shall oblige the Agent or the Security Agent to carry out:
  - (i) any “know your customer” or other checks in relation to any person; or
  - (ii) any check on the extent to which any transaction contemplated by this Agreement might be unlawful for any Finance Party, on behalf of any Finance Party and each Finance Party confirms to the Agent and the Security Agent that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Agent or the Security Agent.
- (e) Without prejudice to any provision of any Finance Document excluding or limiting the liability of the Agent, the Security Agent, any Receiver or Delegate, any liability of the Agent, the Security Agent, any Receiver or Delegate arising under or in

connection with any Finance Document or the Security Property shall be limited to the amount of actual loss which has been finally judicially determined to have been suffered (as determined by reference to the date of default of the Agent, the Security Agent, Receiver or Delegate or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Agent, the Security Agent, any Receiver or Delegate at any time which increase the amount of that loss. In no event shall the Agent, the Security Agent, any Receiver or Delegate be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Agent, the Security Agent, the Receiver or Delegate has been advised of the possibility of such loss or damages.

**29.11 Lenders' indemnity to the Agent and Security Agent**

- (a) Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Agent, the Security Agent and every Receiver and every Delegate, within three (3) Business Days of demand, against any cost, loss or liability (including, without limitation, for negligence or any other category of liability whatsoever) incurred by any of them (otherwise than by reason of the Agent's, Security Agent's Receiver's or Delegate's gross negligence or wilful misconduct) (or, in the case of any cost, loss or liability pursuant to Clause 33.11 (*Disruption to Payment Systems etc.*), notwithstanding the Agent's negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Agent) in acting as Agent, Security Agent, Receiver or Delegate under the Finance Documents (unless the relevant Agent, Security Agent, Receiver or Delegate has been reimbursed by an Obligor pursuant to a Finance Document).
- (b) Subject to paragraph (c) below, the Borrower shall immediately on demand reimburse any Lender for any payment that Lender makes to the Agent or the Security Agent pursuant to paragraph (a) above.
- (c) Paragraph (b) above shall not apply to the extent that the indemnity payment in respect of which the Lender claims reimbursement relates to a liability of the Agent or the Security Agent to an Obligor.

**29.12 Resignation of the Agent and the Security Agent**

- (a) Each of the Agent and/or the Security Agent may resign and appoint one of its Affiliates as successor by giving notice to the other Finance Parties and the Borrower.
- (b) Alternatively the Agent or the Security Agent may resign by giving thirty (30) days' notice to the other Finance Parties and the Borrower, in which case the Majority Lenders (after consultation with the other Finance Parties and the Borrower) may appoint a successor Agent or Security Agent (as applicable).
- (c) If the Majority Lenders have not appointed a successor Agent or Security Agent in accordance with paragraph (b) above within twenty (20) days after notice of resignation was given, the retiring Agent or Security Agent (as applicable) (after consultation with the other Finance Parties and the Borrower) may appoint a successor Agent or Security Agent (as applicable).
- (d) The retiring Agent or Security Agent (as applicable) shall make available to the successor Agent or Security Agent (as applicable) such documents and records and provide such assistance as the successor Agent or Security Agent may reasonably

request for the purposes of performing its functions as Agent or Security Agent (as applicable) under the Finance Documents. The Borrower shall, within three (3) Business Days of demand, reimburse the retiring Agent or Security Agent (as applicable) for the amount of all costs and expenses (including legal fees) properly incurred by it in making available such documents and records and providing such assistance.

- (e) The resignation notice of the Agent or Security Agent (as applicable) shall only take effect upon:
  - (i) the appointment of a successor; and
  - (ii) (in the case of the Security Agent) the transfer of the Security Property to that successor.
- (f) Upon the appointment of a successor, the retiring Agent or Security Agent (as applicable) shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (ii) of Clause 29.24 (*Winding up of trust*) and (e) above) but shall remain entitled to the benefit of Clause (e) (*Indemnity to the Agent*), Clause 14.4 (*Indemnity to the Security Agent*) and this Clause 29 (and any fees for the account of the retiring Agent or Security Agent (as applicable) shall cease to accrue from (and shall be payable on) that date). Any successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.
- (g) After consultation with the Borrower, the Majority Lenders may, by giving thirty (30) days' notice to the Agent or Security Agent (as applicable) (or, at any time the Agent is an Impaired Agent, by giving any shorter notice period determined by the Majority Lenders), require it to resign in accordance with paragraph (b) above. In this event, the Agent or Security Agent (as applicable) shall resign in accordance with paragraph (b) above but the cost referred to in paragraph (d) above shall be for the account of the Borrower (unless the Agent is an Impaired Agent, in which case it shall be for its account).
- (h) The Agent shall resign in accordance with paragraph (b) above (and, to the extent applicable, shall use reasonable endeavours to appoint a successor Agent pursuant to paragraph (c) above) if on or after the date which is three (3) months before the earliest FATCA Application Date relating to any payment to the Agent under the Finance Documents, either:
  - (i) the Agent fails to respond to a request under Clause 12.7 (*FATCA Information*) and the Borrower or a Lender reasonably believes that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;
  - (ii) the information supplied by the Agent pursuant to Clause 12.7 (*FATCA Information*) indicates that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or
  - (iii) the Agent notifies the Borrower and the Lenders that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;

and (in each case) the Borrower or a Lender reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Agent were a

FATCA Exempt Party, and the Borrower or that Lender, by notice to the Agent, requires it to resign.

**29.13 Confidentiality**

- (a) In acting as agent or trustee for the Finance Parties, the Agent or the Security Agent (as applicable) shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.
- (b) If information is received by another division or department of the Agent or Security Agent, it may be treated as confidential to that division or department and the Agent or Security Agent (as applicable) shall not be deemed to have notice of it.
- (c) Notwithstanding any other provision of any Finance Document to the contrary, neither the Agent nor the Security Agent is obliged to disclose to any other person (i) any confidential information or (ii) any other information if the disclosure would, or might in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty.

**29.14 Relationship with the other Finance Parties**

- (a) Subject to Clause 27.9 (*Pro rata interest settlement*), the Agent may treat the person shown in its records as Lender at the opening of business (in the place of the Agent's principal office as notified to the Finance Parties from time to time) as the Lender acting through its Facility Office:
  - (i) entitled to or liable for any payment due under any Finance Document on that day; and
  - (ii) entitled to receive and act upon any notice, request, document or communication or make any decision or determination under any Finance Document made or delivered on that day,

unless it has received not less than five (5) Business Days' prior notice from that Lender to the contrary in accordance with the terms of this Agreement.

- (b) Any Lender may by notice to the Agent appoint a person to receive on its behalf all notices, communications, information and documents to be made or despatched to that Lender under the Finance Documents. Such notice shall contain the address and electronic mail address and/or any other information required to enable the sending and receipt of information by that means (and, in each case, the department or officer, if any, for whose attention communication is to be made) and be treated as a notification of a substitute address, electronic mail address, department and officer by that Lender for the purposes of Clause 36.2 (*Addresses*) and the Agent shall be entitled to treat such person as the person entitled to receive all such notices, communications, information and documents as though that person were that Lender.
- (c) Each Finance Party shall supply the Security Agent with any information that the Security Agent may reasonably specify as being necessary or desirable to enable the Security Agent to perform its functions as Security Agent.

**29.15 Credit appraisal by the Lenders**

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Lender confirms to the Agent and the Security Agent that it has been, and will continue to be, solely responsible for making its own

independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

- (a) the financial condition, status and nature of each member of the Group;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document, the Security Property and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Security Property;
- (c) whether that Finance Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the Security Property, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Security Property;
- (d) the adequacy, accuracy or completeness of any information provided by the Agent, the Security Agent, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and
- (e) the right or title of any person in or to, or the value or sufficiency of any part of, the Security Property, the priority of any of the Transaction Security or the existence of any Security affecting the Security Property.

**29.16 Reference Banks**

The Agent shall (if so instructed by the Majority Lenders and in consultation with the Borrower) replace a Reference Bank with another bank or financial institution.

**29.17 Deduction from amounts payable by the Agent**

If any Party owes an amount to the Agent under the Finance Documents the Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.

**29.18 No responsibility to perfect Transaction Security**

The Security Agent shall not be liable for any failure to:

- (a) require the deposit with it of any deed or document certifying, representing or constituting the title of any Obligor to any of the Security Property;
- (b) obtain any licence, consent or other authority for the execution, delivery, legality, validity, enforceability or admissibility in evidence of any Finance Document or the Transaction Security;
- (c) register, file or record or otherwise protect any of the Transaction Security (or the priority of any of the Transaction Security) under any law or regulation or to give notice to any person of the execution of any Finance Document or of the Transaction Security;

- (d) take, or to require any Obligor to take, any step to perfect its title to any of the Security Property or to render the Transaction Security effective or to secure the creation of any ancillary Security under any law or regulation; or
- (e) require any further assurance in relation to any Security Document.

**29.19 Insurance by Security Agent**

- (a) The Security Agent shall not be obliged:
  - (i) to insure any of the Security Property;
  - (ii) to require any other person to maintain any insurance; or
  - (iii) to verify any obligation to arrange or maintain insurance contained in any Finance Document,and the Security Agent shall not be liable for any damages, costs or losses to any person as a result of the lack of, or inadequacy of, any such insurance.
- (b) Where the Security Agent is named on any insurance policy as an insured party, it shall not be liable for any damages, costs or losses to any person as a result of its failure to notify the insurers of any material fact relating to the risk assumed by such insurers or any other information of any kind, unless the Majority Lenders request it to do so in writing and the Security Agent fails to do so within fourteen (14) days after receipt of that request.

**29.20 Custodians and nominees**

The Security Agent may appoint and pay any person to act as a custodian or nominee on any terms in relation to any asset of the trust as the Security Agent may determine, including for the purpose of depositing with a custodian this Agreement or any document relating to the trust created under this Agreement and the Security Agent shall not be responsible for any loss, liability, expense, demand, cost, claim or proceedings incurred by reason of the misconduct, omission or default on the part of any person appointed by it under this Agreement or be bound to supervise the proceedings or acts of any person.

**29.21 Delegation by the Security Agent**

- (a) Each of the Security Agent, any Receiver and any Delegate may, at any time, delegate by power of attorney or otherwise to any person for any period, all or any right, power, authority or discretion vested in it in its capacity as such.
- (b) That delegation may be made upon any terms and conditions (including the power to sub-delegate) and subject to any restrictions that the Security Agent, that Receiver or that Delegate (as the case may be) may, in its discretion, think fit in the interests of the Secured Parties.
- (c) No Security Agent, Receiver or Delegate shall be bound to supervise, or be in any way responsible for any damages, costs or losses incurred by reason of any misconduct, omission or default on the part of, any such delegate or sub-delegate.
- (d) Unless a Default is continuing, the Security Agent shall notify the Transaction Obligors of the appointment of any Delegate.

#### 29.22 Additional Security Agents

- (a) The Security Agent may, at any time, appoint (and subsequently remove) any person to act as a separate trustee or as a co-trustee jointly with it:
- (i) if it considers that appointment to be in the interests of the Secured Parties;
  - (ii) for the purposes of conforming to any legal requirement, restriction or condition which the Security Agent deems to be relevant; or
  - (iii) for obtaining or enforcing any judgment in any jurisdiction,
- and the Security Agent shall give prior notice to the Borrower and the Finance Parties of that appointment.
- (b) Any person so appointed shall have the rights, powers, authorities and discretions (not exceeding those given to the Security Agent under or in connection with the Finance Documents) and the duties, obligations and responsibilities that are given or imposed by the instrument of appointment.
- (c) The remuneration that the Security Agent may pay to that person, and any costs and expenses (together with any applicable VAT) incurred by that person in performing its functions pursuant to that appointment shall, for the purposes of this Agreement, be treated as costs and expenses incurred by the Security Agent.

#### 29.23 Acceptance of title

The Security Agent shall be entitled to accept without enquiry, and shall not be obliged to investigate, any right and title that any Obligor may have to any of the Security Property and shall not be liable for, or bound to require any Obligor to remedy, any defect in its right or title.

#### 29.24 Winding up of trust

If the Security Agent, with the approval of the Agent, determines that:

- (a) all of the Secured Liabilities and all other obligations secured by the Security Documents have been fully and finally discharged; and
- (b) no Secured Party is under any commitment, obligation or liability (actual or contingent) to make advances or provide other financial accommodation to any Obligor pursuant to the Finance Documents,

then:

- (i) the trusts set out in this Agreement shall be wound up and the Security Agent shall release, without recourse or warranty, all of the Transaction Security and the rights of the Security Agent under each of the Security Documents; and
- (ii) any Security Agent which has resigned pursuant to Clause 29.12 (*Resignation of the Agent and the Security Agent*) shall release, without recourse or warranty, all of its rights under each Security Document.

29.25 **Perpetuity period**

The trusts constituted by this Agreement are governed by English law and the perpetuity period under the rule against perpetuities, if applicable to this Agreement, shall be the period of 125 years from the date of this Agreement.

29.26 **Powers supplemental to Trustee Acts**

The rights, powers, authorities and discretions given to the Security Agent under or in connection with the Finance Documents shall be supplemental to the Trustee Act 1925 and the Trustee Act 2000 and in addition to any which may be vested in the Security Agent by law or regulation or otherwise.

29.27 **Disapplication of Trustee Acts**

Section 1 of the Trustee Act 2000 shall not apply to the duties of the Security Agent in relation to the trusts constituted by this Agreement. Where there are any inconsistencies between the Trustee Act 1925 or the Trustee Act 2000 and the provisions of this Agreement, the provisions of this Agreement shall, to the extent permitted by law and regulation, prevail and, in the case of any inconsistency with the Trustee Act 2000, the provisions of this Agreement shall constitute a restriction or exclusion for the purposes of that Act.

29.28 **Parallel Debt**

- (a) Each Transaction Obligor irrevocably and unconditionally undertakes to pay (and shall procure that each other Transaction Obligor which is a Subsidiary of that Transaction Obligor shall pay) to the Security Agent all amounts equal to, and in the currency or currencies of, its Corresponding Debt (such amount of the relevant Transaction Obligors being its "**Parallel Debt**").
- (b) The Parallel Debt of a Transaction Obligor:
  - (i) shall become due and payable at the same time as its Corresponding Debt;
  - (ii) is independent and separate from, and without prejudice to, its Corresponding Debt.
- (c) For purposes of this Clause 29.28 , the Security Agent:
  - (i) is the independent and separate creditor of each Parallel Debt;
  - (ii) acts in its own name and not as agent, representative or trustee of the Finance Parties and its claims in respect of each Parallel Debt shall not be held on trust; and
  - (iii) shall have the independent and separate right to demand payment of each Parallel Debt in its own name (including, without limitation, through any suit, execution, enforcement of security, recovery of guarantees and applications for and voting in any kind of insolvency proceeding).
- (d) The Parallel Debt of a Transaction Obligor shall be:
  - (i) decreased to the extent that its Corresponding Debt has been irrevocably and unconditionally paid or discharged; and
  - (ii) increased to the extent that its Corresponding Debt has increased,



and the Corresponding Debt of a Transaction Obligor shall be:

- (iii) decreased to the extent that its Parallel Debt has been irrevocably and unconditionally paid or discharged; and
- (iv) increased to the extent that its Parallel Debt has increased,

in each case provided that the Parallel Debt of a Transaction Obligor shall never exceed its Corresponding Debt.

- (e) All amounts received or recovered by the Security Agent in connection with this Clause 29.28 to the extent permitted by applicable law, shall be applied in accordance with Clause 30.1 (*Application of receipts – Security Agent*).
- (f) This Clause 29.28 shall apply, with any necessary modifications, to each Finance Document.

### 30. **Application of Proceeds**

#### 30.1 **Application of receipts – Security Agent**

- (a) Except as expressly stated to the contrary in any Finance Document, any moneys which the Security Agent receives or recovers and which are, or are attributable to, Security Property (for the purposes of this Clause 30 (*Application of Proceeds*), the “**Recoveries**”) shall be transferred to the Agent for application in accordance with Clause 33.5 (*Application of receipts - Partial Payments*).
- (b) Paragraph (a) above is without prejudice to the rights of the Security Agent, each Receiver and each Delegate:
  - (i) to be indemnified out of the Charged Property in accordance with any provision of any Finance Document; and
  - (ii) under any Finance Document to credit any moneys received or recovered by it to any suspense account.
- (c) Any transfer by the Security Agent to the Facility Agent in accordance with paragraph (a) above shall be a good discharge, to the extent of that payment, by the Security Agent.
- (d) The Security Agent is under no obligation to make the payments to the Facility Agent under paragraph (a) of this Clause 30.1 (*Application of receipts – Security Agent*) in the same currency as that in which the obligations and liabilities owing to the relevant Finance Party are denominated.

#### 30.2 **Deductions from receipts**

- (a) Before transferring any moneys to the Facility Agent under Clause 30.1 (*Application of Receipts – Security Agent*), the Security Agent may, in its discretion:
  - (i) deduct any sum then due and payable under this Agreement or any other Finance Documents to the Security Agent or any Receiver or Delegate and retain that sum for itself or, as the case may require, pay it to another person to whom it is then due and payable;

- (ii) set aside by way of reserve amounts required to meet, and to make and pay, any deductions and withholdings (on account of Taxes or otherwise) which it is or may be required by any applicable law to make from any distribution or payment made by it under this Agreement; and
  - (iii) pay all Taxes which may be assessed against it in respect of any of the Security Property, or as a consequence of performing its duties, or by virtue of its capacity as Security Agent under any of the Finance Documents or otherwise (other than in connection with its remuneration for performing its duties under this Agreement).
- (b) For the purposes of paragraph (a)(i) above, if the Security Agent has become entitled to require a sum to be paid to it on demand, that sum shall be treated as due and payable, even if no demand has yet been served.

**30.3 Prospective liabilities**

Following acceleration of any of the Transaction Security, the Security Agent may, in its discretion, or at the request of the Agent, hold any Recoveries in an interest bearing suspense or impersonal account(s) in the name of the Security Agent with such financial institution (including itself) and for so long as the Security Agent shall think fit acting reasonably (the interest being credited to the relevant account) for later payment to the Agent for application in accordance with Clause 33.5 (*Application of receipts - Partial Payments*) in respect of:

- (a) any sum to the Security Agent, any Receiver or any Delegate; and
- (b) any part of the Secured Liabilities, that the Security Agent or, in the case of paragraph (b) only, the Agent, reasonably considers, in each case, might become due or owing at any time in the future.

**30.4 Investment of proceeds**

Prior to the application of the proceeds of the Recoveries in accordance with Clause 30.1 (*Application of Receipts – Security Agent*) the Security Agent may, in its discretion, hold all or part of those proceeds in an interest bearing suspense or impersonal account(s) in the name of the Security Agent with such financial institution (including itself) and for so long as the Security Agent shall think fit (the interest being credited to the relevant account) pending the application from time to time of those moneys in the Security Agent's discretion in accordance with the provisions of this Clause 30.

**30.5 Currency Conversion**

- (a) For the purpose of, or pending the discharge of, any of the Secured Liabilities the Security Agent may convert any moneys received or recovered by the Security Agent from one currency to another, at a market rate of exchange.
- (b) The obligations of any Obligor to pay in the due currency shall only be satisfied to the extent of the amount of the due currency purchased after deducting the costs of conversion.

**30.6 Good Discharge**

- (a) Any payment to be made in respect of the Secured Liabilities by the Security Agent may be made to the Agent on behalf of the Finance Parties and any payment made in that way shall be a good discharge, to the extent of that payment, by the Security Agent.

- (b) The Security Agent is under no obligation to make the payments to the Agent under paragraph (a) of this Clause 30.6 in the same currency as that in which the obligations and liabilities owing to the relevant Finance Party are denominated.

31. **Conduct of business by the Finance Parties**

No provision of this Agreement will:

- (a) interfere with the right of any Finance Party to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;
- (b) oblige any Finance Party to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or
- (c) oblige any Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

32. **Sharing among the Finance Parties**

32.1 **Payments to Finance Parties**

If a Finance Party (a “**Recovering Finance Party**”) receives or recovers any amount from an Obligor other than in accordance with Clause 33 (*Payment mechanics*) (a “**Recovered Amount**”) and applies that amount to a payment due under the Finance Documents then:

- (a) the Recovering Finance Party shall, within three (3) Business Days, notify details of the receipt or recovery to the Agent;
- (b) the Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Finance Party would have been paid had the receipt or recovery been received or made by the Agent and distributed in accordance with Clause 33 (*Payment mechanics*), without taking account of any Tax which would be imposed on the Agent in relation to the receipt, recovery or distribution; and
- (c) the Recovering Finance Party shall, within three (3) Business Days of demand by the Agent, pay to the Agent an amount (the “**Sharing Payment**”) equal to such receipt or recovery less any amount which the Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with Clause 33.5 (*Application of Receipts – Partial Payments*).

32.2 **Redistribution of payments**

The Agent shall treat the Sharing Payment as if it had been paid by the relevant Obligor and distribute it between the Finance Parties (other than the Recovering Finance Party) (the “**Sharing Finance Parties**”) in accordance with Clause 33.5 (*Application of Receipts – Partial Payments*) towards the obligations of that Obligor to the Sharing Finance Parties.

32.3 **Recovering Finance Party’s rights**

On a distribution by the Agent under Clause 32.2 (*Redistribution of payments*) of a payment received by a Recovering Finance Party from an Obligor, as between the relevant Obligor and the Recovering Finance Party, an amount of the Recovered Amount equal to the Sharing Payment will be treated as not having been paid by that Obligor.

### 32.4 **Reversal of redistribution**

If any part of the Sharing Payment received or recovered by a Recovering Finance Party becomes repayable and is repaid by that Recovering Finance Party, then:

- (a) each Sharing Finance Party shall, upon request of the Agent, pay to the Agent for the account of that Recovering Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay) (the “**Redistributed Amount**”); and
- (b) as between the relevant Obligor and each relevant Sharing Finance Party, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by that Obligor.

### 32.5 **Exceptions**

- (a) This Clause 32 (*Sharing among the Finance Parties*) shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause, have a valid and enforceable claim against the relevant Obligor.
- (b) A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:
  - (i) it notified that other Finance Party of the legal or arbitration proceedings; and
  - (ii) that other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

## 33. **Payment mechanics**

### 33.1 **Payments to the Agent**

- (a) On each date on which an Obligor or a Lender is required to make a payment under a Finance Document, that Obligor or Lender shall make the same available to the Agent (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.
- (b) Payment shall be made to such account in the principal financial centre of the country of that currency (or, in relation to euro, in a principal financial centre in such Participating Member State or London, as specified by the Agent) and with such bank as the Agent, in each case, specifies.

### 33.2 **Distributions by the Agent**

Each payment received by the Agent under the Finance Documents for another Party shall, subject to Clause 33.3 (*Distributions to an Obligor*) and Clause 33.4 (*Clawback and pre-funding*) be made available by the Agent as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office), to such account as that Party may notify to the Agent by not less than five (5) Business Days' notice with a bank specified by that Party in the principal

financial centre of the country of that currency (or, in relation to euro, in the principal financial centre of a Participating Member State or London, as specified by that Party).

### 33.3 Distributions to an Obligor

The Agent may (with the consent of an Obligor or in accordance with Clause 34 (*Set-off*)) apply any amount received by it for that Obligor in or towards payment (on the date and in the currency and funds of receipt) of any amount due from that Obligor under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

### 33.4 Clawback and pre-funding

- (a) Where a sum is to be paid to the Agent under the Finance Documents for another Party, the Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.
- (b) Unless paragraph (c) below applies, if the Agent pays an amount to another Party and it proves to be the case that the Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Agent shall on demand refund the same to the Agent together with interest on that amount from the date of payment to the date of receipt by the Agent, calculated by the Agent to reflect its cost of funds.
- (c) If the Agent is willing to make available amounts for the account of the Borrower before receiving funds from the Lenders then if and to the extent that the Agent does so but it proves to be the case that it does not then receive funds from a Lender in respect of a sum which it paid to the Borrower:
  - (i) the Agent shall notify the Borrower of that Lender's identity and the Borrower shall on demand refund it to the Agent; and
  - (ii) the Lender by whom those funds should have been made available or, if that Lender fails to do so, the Borrower, shall on demand pay to the Agent the amount (as certified by the Agent) which will indemnify the Agent against any funding cost incurred by it as a result of paying out that sum before receiving those funds from that Lender.

### 33.5 Impaired Agent

- (a) If, at any time, the Agent becomes an Impaired Agent, an Obligor or a Lender which is required to make a payment under the Finance Documents to the Agent in accordance with Clause 33.1 (*Payments to the Agent*) may instead either:
  - (i) pay that amount direct to the required recipient(s); or
  - (ii) if in its absolute discretion it considers that it is not reasonably practicable to pay that amount direct to the required recipient(s), pay that amount or the relevant part of that amount to an interest-bearing account held with an Acceptable Bank (as defined in paragraph (f) below) and in relation to which no Insolvency Event has occurred and is continuing, in the name of the Obligor or the Lender making the payment (the "**Paying Party**") and designated as a trust account for the benefit of the Party or Parties beneficially entitled to that payment under the Finance Documents (the "**Recipient Party**" or "**Recipient Parties**").

In each case such payments must be made on the due date for payment under the Finance Documents.

- (b) All interest accrued on the amount standing to the credit of the trust account shall be for the benefit of the Recipient Party or the Recipient Parties *pro rata* to their respective entitlements.
- (c) A Party which has made a payment in accordance with this Clause 33.5 shall be discharged of the relevant payment obligation under the Finance Documents and shall not take any credit risk with respect to the amounts standing to the credit of the trust account.
- (d) Promptly upon the appointment of a successor Agent in accordance with Clause 29.12 (*Resignation of the Agent or the Security Agent*), each Paying Party shall (other than to the extent that that Party has given an instruction pursuant to paragraph (e) below) give all requisite instructions to the bank with whom the trust account is held to transfer the amount (together with any accrued interest) to the successor Agent for distribution to the relevant Recipient Party or Recipient Parties in accordance with Clause 33.2 (*Distributions by the Agent*).
- (e) A Paying Party shall, promptly upon request by a Recipient Party and to the extent:
  - (i) that it has not given an instruction pursuant to paragraph (d) above; and
  - (ii) that it has been provided with the necessary information by that Recipient Party,give all requisite instructions to the bank with whom the trust account is held to transfer the relevant amount (together with any accrued interest) to that Recipient Party.
- (f) For the purposes of this Clause, an “Acceptable Bank” is a bank or financial institution which has a rating for its long-term unsecured and non-credit-enhanced debt obligations of A- or higher by Standard & Poor’s Rating Services or Fitch Ratings Ltd or A3 or higher by Moody’s Investor Services Limited or a comparable rating from an internationally recognised credit rating agency.

### 33.6 **Application of Receipts – Partial Payments**

If the Agent receives a payment that is insufficient to discharge all the amounts then due and payable by an Obligor under the Finance Documents, the Agent shall apply that payment towards the obligations of that Obligor under the Finance Documents in the following order:

- (a) FIRST, in or towards payment *pro rata* of any unpaid fees, costs and expenses of, and any other amounts owing to, the Agent, the Security Agent, any Receiver and any Delegate under the Finance Documents;
- (b) SECOND, in or towards payment *pro rata* of any accrued interest and fees due but unpaid to the Lenders under this Agreement;
- (c) THIRD, in or towards payment *pro rata* of any principal due but unpaid to the Lenders under this Agreement; and
- (d) FOURTH, in or towards payment *pro rata* of any other sum due to any Finance Party but unpaid under the Finance Documents.

**33.7 No set-off by Obligor**

All payments to be made by an Obligor under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

**33.8 Business Days**

- (a) Any payment (including, for the avoidance of doubt, any payment under Clause 24.4(b)) which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- (b) During any extension of the due date for payment of any principal or Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

**33.9 Currency of account**

- (a) Subject to paragraphs (b) and (c) below, US\$ is the currency of account and payment for any sum due from an Obligor under any Finance Document.
- (b) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.
- (c) Any amount expressed to be payable in a currency other than US\$ shall be paid in that other currency.

**33.10 Change of currency**

- (a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:
  - (i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Agent (after consultation with the Borrower); and
  - (ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Agent (acting reasonably).
- (b) If a change in any currency of a country occurs, this Agreement will, to the extent the Agent (acting reasonably and after consultation with the Borrower) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the Relevant Interbank Market and otherwise to reflect the change in currency.

**33.11 Disruption to Payment Systems etc.**

If either the Agent determines (in its discretion) that a Disruption Event has occurred or the Agent is notified by the Borrower that a Disruption Event has occurred:

- (a) the Agent may, and shall if requested to do so by the Borrower, consult with the Borrower with a view to agreeing such changes to the operation or administration of the Facility as the Agent may deem necessary in the circumstances;
- (b) the Agent shall not be obliged to consult with the Borrower in relation to any changes mentioned in paragraph (a) if, in its opinion, it is not practicable to do so in the circumstances and, in any event, shall have no obligation to agree to such changes;
- (c) the Agent may consult with the Finance Parties in relation to any changes mentioned in paragraph (a) but shall not be obliged to do so if, in its opinion, it is not practicable to do so in the circumstances;
- (d) any such changes agreed upon by the Agent and the Borrower shall (whether or not it is finally determined that a Disruption Event has occurred) be binding upon the Parties as an amendment to (or, as the case may be, waiver of) the terms of the Finance Documents notwithstanding the provisions of Clause 40 (*Amendments and waivers*);
- (e) the Agent shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever (including, without limitation for negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Agent) arising as a result of its taking, or failing to take, any actions pursuant to or in connection with this Clause 33.11; and
- (f) the Agent shall notify the Finance Parties of all changes agreed pursuant to paragraph (d) above.

34. **Set-off**

A Finance Party may set off any matured obligation due from an Obligor under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to that Obligor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

35. **Contractual recognition of bail-in**

Notwithstanding any other term of any Finance Document or any other agreement, arrangement or understanding between the Parties, each Party acknowledges and accepts that any liability of any Party to any other Party under or in connection with the Finance Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

- (a) any Bail-In Action in relation to any such liability, including (without limitation):
  - (i) a reduction, in full or in part, in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;
  - (ii) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and
  - (iii) a cancellation of any such liability; and
- (b) a variation of any term of any Finance Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.



36. **Notices**

36.1 **Communications in writing**

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by email or letter.

36.2 **Addresses**

The address and email address (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents is:

- (a) in the case of the Borrower, that specified in Schedule 1 (*The Original Parties*);
- (b) in the case of each Lender, that specified in Schedule 1 (*The Original Parties*) or, if it becomes a Party after the date of this Agreement, that notified in writing to the Agent on or before the date it becomes a Party;
- (c) in the case of the Agent and the Security Agent, that specified in Schedule 1 (*The Original Parties*),

or, in each case, any substitute address or email address or department or officer as the Party may notify to the Agent (or the Agent may notify to the other Parties, if a change is made by the Agent) by not less than five (5) Business Days' notice.

36.3 **Delivery**

- (a) Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective:
  - (i) if by way of letter, when it has been left at the relevant address or five (5) Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address;
  - (ii) if by way of email, when received in readable form.

and, if a particular department or officer is specified as part of its address details provided under Clause 36.2 (*Addresses*), if addressed to that department or officer.

- (b) Any communication or document to be made or delivered to the Agent or the Security Agent will be effective only when actually received by the Agent or the Security Agent and then only if it is expressly marked for the attention of the department or officer identified with the Agent's or the Security Agent's signature below (or any substitute department or officer as the Agent or Security Agent shall specify for this purpose).
- (c) All notices from or to an Obligor shall be sent through the Agent.
- (d) Any communication or document made or delivered to the Borrower in accordance with this Clause will be deemed to have been made or delivered to each of the Obligors.
- (e) Any communication or document which becomes effective, in accordance with paragraphs (a) to (d) above, after 5 p.m. in the place of receipt shall be deemed only to become effective on the following day.

**36.4 Notification of address and email address**

Promptly upon receipt of notification of an address or email address or change of address or email address pursuant to Clause 36.2 (*Addresses*) or changing its own address or email address, the Agent shall notify the other Parties.

**36.5 Communication when Agent is Impaired Agent**

If the Agent is an Impaired Agent the parties may, instead of communicating with each other through the Agent, communicate with each other directly and (while the Agent is an Impaired Agent) all the provisions of the Finance Documents which require communications to be made or notices to be given to or by the Agent shall be varied so that communications may be made and notices given to or by the relevant parties directly. This provision shall not operate after a replacement Agent has been appointed.

**36.6 Electronic communication**

- (a) Any communication to be made between any two parties under or in connection with the Finance Documents may be made by electronic mail or other electronic means (including, without limitation, by way of posting to a secure website) if those two parties:
  - (i) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and
  - (ii) notify each other of any change to their address or any other such information supplied by them by not less than five (5) Business Days' notice.
- (b) Any such electronic communication as specified in paragraph (a) above to be made between an Obligor and a Finance party may only be made in that way to the extent that those two parties agree that, unless and until notified to the contrary, this is to be an accepted for on communication.
- (c) Any electronic communication as specified in paragraph (a) above made between any two parties will be effective only when actually received (or made available) in readable form and in the case of any electronic communication made by a party to the Agent or Security Agent only if it is addressed in such a manner as the Agent or Security Agent shall specify for this purpose.
- (d) Any electronic communication which becomes effective, in accordance with paragraph (c) above, after 5.00 p.m. in the place in which the party to whom the relevant communication is sent or made available has its address for the purpose of this Agreement shall be deemed only to become effective on the following day.
- (e) Any reference in a Finance Document to a communication being sent or received shall be construed to include that communication being made available in accordance with this Clause 36.6.

**36.7 English language**

- (a) Any notice given under or in connection with any Finance Document must be in English.
- (b) All other documents provided under or in connection with any Finance Document must be:

- (i) in English; or
- (ii) if not in English, and if so required by the Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

37. **Calculations and certificates**

37.1 **Accounts**

In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by a Finance Party are *prima facie* evidence of the matters to which they relate.

37.2 **Certificates and Determinations**

Any certification or determination by a Finance Party of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

37.3 **Day count convention**

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of three hundred and sixty (360) days or, in any case where the practice in the Relevant Interbank Market differs, in accordance with that market practice.

38. **Partial invalidity**

If, at any time, any provision of the Finance Documents is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

39. **Remedies and waivers**

No failure to exercise, nor any delay in exercising, on the part of any Finance Party, any right or remedy under the Finance Documents shall operate as a waiver of any such right or remedy or constitute an election to affirm any of the Finance Documents. No election to affirm any of the Finance Documents on the part of any Finance Party shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

40. **Amendments and waivers**

40.1 **Required consents**

- (a) (Subject to Clause 40.3 (*All Lender matters*) and Clause 40.6 (*Other exceptions*), any term of the Finance Documents may be amended or waived only with the consent of the Majority Lenders and the Transaction Obligors and any such amendment or waiver will be binding on all Parties.
- (b) The Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause 40.

- (c) Without prejudice to the generality of paragraphs (c), (d) and (e) of Clause 29.7 (*Rights and discretions*), the Agent may engage, pay for and rely on the services of lawyers in determining the consent level required for and effecting any amendment, waiver or consent under this Agreement.
- (d) Each Transaction Obligor agrees to any such amendment or waiver permitted by this Clause 40.1 which is agreed to by the Borrower. This includes any amendment or waiver which would, but for this paragraph (d), require the consent of all of the Transaction Obligors.

**40.2 Excluded Commitments**

If:

- (a) any Defaulting Lender fails to respond to a request for a consent, waiver, amendment of or in relation to any term of any Finance Document or any other vote of Lenders under the terms of this Agreement within ten (10) Business Days of that request being made; or
- (b) any Lender which is not a Defaulting Lender fails to respond to such a request or such a vote within fifteen (15) Business Days of that request being made,

(unless, in either case, the Borrower and the Agent agree to a longer time period in relation to any request):

- (i) its Commitment and/or participation in the Loan then outstanding shall not be included for the purpose of calculating the Total Commitments or participations under the Facility when ascertaining whether any relevant percentage (including, for the avoidance of doubt, unanimity) of Total Commitments has been obtained to approve that request; and
- (ii) its status as a Lender shall be disregarded for the purpose of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve that request.

**40.3 Disenfranchisement of Defaulting Lenders**

(a) For so long as a Defaulting Lender has any Available Commitment, in ascertaining:

- (i) the Majority Lenders; or
- (ii) whether:

- (A) any given percentage (including, for the avoidance of doubt, unanimity) of the Total Commitments; or
- (B) the agreement of any specified group of Lenders,

has been obtained to approve any request for a consent, waiver, amendment or other vote of Lenders under the Finance Documents, that Defaulting Lender's Commitments will be reduced by the amount of its Available Commitments and, to the extent that that reduction results in that Defaulting Lender's Total Commitments being zero, that Defaulting Lender shall be deemed not to be a Lender for the purposes of paragraphs (i) and (ii) above.

- (b) For the purposes of this Clause “, the Agent may assume that the following Lenders are Defaulting Lenders:
- (i) any Lender which has notified the Agent that it has become a Defaulting Lender;
  - (ii) any Lender in relation to which it is aware that any of the events or circumstances referred to in paragraphs (a), (b) or (c) of the definition of "Defaulting Lender" has occurred,

unless it has received notice to the contrary from the Lender concerned (together with any supporting evidence reasonably requested by the Agent) or the Agent is otherwise aware that the Lender has ceased to be a Defaulting Lender.

#### 40.4 Replacement of a Defaulting Lender

- (a) The Borrower may, at any time a Lender has become and continues to be a Defaulting Lender, by giving five (5) Business Days' prior notice to the Agent and such Lender replace such Lender by requiring such Lender to (and, to the extent permitted by law, such Lender shall) transfer pursuant to Clause 27 (*Changes to the Lenders*) all (and not part only) of its rights and obligations under this Agreement to an Eligible Institution (a "**Replacement Lender**") which confirms its willingness to assume and does assume all the obligations, or all the relevant obligations, of the transferring Lender in accordance with Clause 27 (*Changes to the Lenders*) for a purchase price in cash payable at the time of transfer which is either:
- (i) in an amount equal to the outstanding principal amount of such Lender's participation in the outstanding Loan and all accrued interest, Break Costs and other amounts payable in relation thereto under the Finance Documents; or
  - (ii) in an amount agreed between that Defaulting Lender, the Replacement Lender and the Borrower and which does not exceed the amount described in paragraph (i) above.
- (b) Any transfer of rights and obligations of a Defaulting Lender pursuant to this Clause 40.4 shall be subject to the following conditions:
- (i) the Borrower shall have no right to replace the Agent or Security Agent;
  - (ii) neither the Agent nor the Defaulting Lender shall have any obligation to the Borrower to find a replacement Lender;
  - (iii) the transfer must take place no later than ten (10) Business Days after the notice referred to in paragraph (a) above;
  - (iv) in no event shall the Defaulting Lender be required to pay or surrender to the Replacement Lender any of the fees received by the Defaulting Lender pursuant to the Finance Documents; and
  - (v) the Defaulting Lender shall only be obliged to transfer its rights and obligations pursuant to paragraph (a) above once it is satisfied that it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to that transfer to the Replacement Lender.

- (c) The Defaulting Lender shall perform the checks described in paragraph (b)(v) above as soon as reasonably practicable following delivery of a notice referred to in paragraph (a) above and shall notify the Agent and the Borrower when it is satisfied that it has complied with those checks.

#### 40.5 All Lender matters

An amendment, waiver or (in the case of a Security Document) a consent of, or in relation to, any term of any Finance Document that has the effect of changing or which relates to:

- (a) the definition of “Majority Lenders” in Clause 1.1 (*Definitions*);
- (b) a postponement or extension to the date of payment of any amount under the Finance Documents;
- (c) a reduction in the Margin or a reduction in the amount of any payment of principal, interest, fees or commission payable;
- (d) a change in currency of payment of any amount under the Finance Documents;
- (e) an increase in any Commitment or the Total Commitments, an extension of any Availability Period or any requirement that a cancellation of Commitments reduces the Commitments rateably under the Facility;
- (f) a change to any Obligor;
- (g) any provision which expressly requires the consent of all the Lenders;
- (h) any change to the preamble (*Background*), Clause 2.1 (*The Facility*), Clause 3 (*Purpose*), Clause 5 (*Utilisation*), Clause 8 (*Interest*), Clause 27 (*Changes to Lenders*), this Clause 40, Clause 43 (*Governing law*) or Clause 44.1 (*Jurisdiction*).
- (i) (other than as expressly permitted by the provisions of any Finance Document) the nature or scope of:
  - (i) the guarantee and indemnity granted under Clause 17 (*Guarantee and indemnity*);
  - (ii) the Security Property; or
  - (iii) the manner in which the proceeds of enforcement of the Transaction Security are distributed(except in the case of paragraphs (ii) and (iii) above, insofar as it relates to a sale or disposal of an asset which is the subject of the Transaction Security where such sale or disposal is expressly permitted under this Agreement or any other Finance Document); or
- (j) the release of, or material variation to, any guarantee and indemnity granted under Clause 17 (*Guarantee and indemnity*) or of any Transaction Security unless permitted under this Agreement or any other Finance Document or relating to a sale or disposal of an asset which is the subject of the Transaction Security where such sale or disposal is expressly permitted under this Agreement or any other Finance Document,

shall not be made, or given, without the prior consent of all the Lenders.

#### 40.6 **Other exceptions**

An amendment or waiver which relates to the rights or obligations of the Agent or the Security Agent (each in their capacity as such) may not be effected without the consent of the Agent or, as the case may be, the Security Agent.

#### 40.7 **Replacement of Screen Rate**

Subject to Clause 40.6 (*Other exceptions*), if a Screen Rate Replacement Event has occurred in relation to any Screen Rate which can be selected for the Loan, any amendment or waiver which relates to:

- (a) providing for the use of a Replacement Benchmark in place of that Screen Rate; and
- (b)
  - (i) aligning any provision of any Finance Document to the use of that Replacement Benchmark;
  - (ii) enabling that Replacement Benchmark to be used for the calculation of interest under this Agreement (including, without limitation, any consequential changes required to enable that Replacement Benchmark to be used for the purposes of this Agreement);
  - (iii) implementing market conventions applicable to that Replacement Benchmark;
  - (iv) providing for appropriate fallback (and market disruption) provisions for that Replacement Benchmark; or
  - (v) adjusting the pricing to reduce or eliminate, to the extent reasonably practicable, any transfer of economic value from one Party to another as a result of the application of that Replacement Benchmark (and if any adjustment or method for calculating any adjustment has been formally designated, nominated or recommended by the Relevant Nominating Body, the adjustment shall be determined on the basis of that designation, nomination or recommendation),

may be made with the consent of the Agent (acting on the instructions of the Majority Lenders) and the Borrower.

#### 41. **Confidentiality**

##### 41.1 **Confidential Information**

Each Finance Party agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 41.2 (*Disclosure of Confidential Information*) and Clause 41.3 (*Disclosure to numbering service providers*), and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information.

##### 41.2 **Disclosure of Confidential Information**

Any Finance Party may disclose:

- (a) to any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives such Confidential

Information as that Finance Party shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;

- (b) to any person:
- (i) to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Finance Documents or which succeeds (or which may potentially succeed) it as Agent or Security Agent and, in each case, to any of that person's Affiliates, Representatives and professional advisers;
  - (ii) with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, one or more Finance Documents and/or one or more Obligor and to any of that person's Affiliates, Representatives and professional advisers;
  - (iii) appointed by any Finance Party or by a person to whom paragraph (b)(i) or (b)(ii) above applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf (including, without limitation, any person appointed under paragraph (c) of Clause 29.14(b) (*Relationship with the other Finance Parties*));
  - (iv) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in paragraph (b)(i) or (b)(ii) above;
  - (v) to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;
  - (vi) to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes;
  - (vii) to whom or for whose benefit that Finance Party charges, assigns or otherwise creates Security (or may do so) pursuant to Clause 27.8 (*Security over Lenders' rights*);
  - (viii) who is a Party, a member of the Group or any Affiliate of an Obligor; or
  - (ix) with the consent of the Borrower;

in each case, such Confidential Information as that Finance Party shall consider appropriate if:

- (1) in relation to paragraphs (b)(i), (b)(ii) and (b)(iii) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking except that there shall be no requirement



for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;

- (2) in relation to paragraph (b)(iv) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is otherwise bound by requirements of confidentiality in relation to the Confidential Information they receive and is informed that some or all of such Confidential Information may be price-sensitive information;
  - (3) in relation to paragraphs (b)(v), and (b)(vi) and (b)(vii) above, the person to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of that Finance Party, it is not practicable so to do in the circumstances;
- (c) to any person appointed by that Finance Party or by a person to whom paragraph (b)(i) or (b)(ii) above applies to provide administration or settlement services in respect of one or more of the Finance Documents including without limitation, in relation to the trading of participations in respect of the Finance Documents, such Confidential Information as may be required to be disclosed to enable such service provider to provide any of the services referred to in this paragraph (c) if the service provider to whom the Confidential Information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Borrower and the relevant Finance Party;
- (d) to any rating agency (including its professional advisers) such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Finance Documents and/or the Obligors if the rating agency to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information.

#### 41.3 Disclosure to numbering service providers

- (a) Any Finance Party may disclose to any national or international numbering service provider appointed by that Finance Party to provide identification numbering services in respect of this Agreement, the Facility and/or one or more Obligors the following information:
- (i) names of Obligors;
  - (ii) country of domicile of Obligors;
  - (iii) place of incorporation of Obligors;
  - (iv) date of this Agreement;
  - (v) the name of the Agent;
  - (vi) date of each amendment of this Agreement;

- (vii) amount of Total Commitments;
- (viii) currency of the Facility;
- (ix) type of Facility;
- (x) ranking of Facility;
- (xi) Termination Date for Facility;
- (xii) changes to any of the information previously supplied pursuant to paragraphs (i) to (xi) above; and
- (xiii) such other information agreed between such Finance Party and the Ultimate Parent,

to enable such numbering service provider to provide its usual syndicated loan numbering identification services.

- (b) The Parties acknowledge and agree that each identification number assigned to this Agreement, the Facility and/or one or more Obligors by a numbering service provider and the information associated with each such number may be disclosed to users of its services in accordance with the standard terms and conditions of that numbering service provider.
- (c) Each Transaction Obligor represents that none of the information set out in paragraphs (a)(i) to (a)(xiii) of paragraph (a) above is, nor will at any time be, unpublished price-sensitive information.
- (d) The Agent shall notify the Borrower and the other Finance Parties of:
  - (i) the name of any numbering service provider appointed by the Agent in respect of this Agreement, the Facility and/or one or more Obligors; and
  - (ii) the number or, as the case may be, numbers assigned to this Agreement, the Facility and/or one or more Obligors by such numbering service provider.

#### 41.4 **Entire agreement**

This Clause 41 (*Confidentiality*) constitutes the entire agreement between the Parties in relation to the obligations of the Finance Parties under the Finance Documents regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

#### 41.5 **Inside information**

Each of the Finance Parties acknowledges that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and each of the Finance Parties undertakes not to use any Confidential Information for any unlawful purpose.

#### 41.6 **Notification of disclosure**

Each of the Finance Parties agrees (to the extent permitted by law and regulation) to inform the Borrower:

- (a) of the circumstances of any disclosure of Confidential Information made pursuant to paragraph (b)(iv) of Clause 41.2 (*Disclosure of Confidential Information*) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
- (b) upon becoming aware that Confidential Information has been disclosed in breach of this Clause 41 (*Confidentiality*).

#### 41.7 **Continuing obligations**

The obligations in this Clause 41 (*Confidentiality*) are continuing and, in particular, shall survive and remain binding on each Finance Party for a period of 12 months from the earlier of:

- (a) the date on which all amounts payable by the Obligors under or in connection with the Finance Documents have been paid in full and all Commitments have been cancelled or otherwise cease to be available; and
- (b) the date on which such Finance Party otherwise ceases to be a Finance Party.

#### 42. **Counterparts**

Each Finance Document may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Finance Document.

#### 43. **Governing law**

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

#### 44. **Enforcement**

##### 44.1 **Jurisdiction**

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or any non-contractual obligation arising out of or in connection with this Agreement) (a “**Dispute**”).
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) This Clause 44.1 is for the benefit of the Finance Parties only. As a result, no Finance Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Finance Parties may take concurrent proceedings in any number of jurisdictions.

##### 44.2 **Service of process**

- (a) Without prejudice to any other mode of service allowed under any relevant law, each Transaction Obligor:
  - (i) irrevocably appoints GSLS acting through its office from time to time currently at Portland House, Stag Place, London, SW1E 5RS, as its agent for

service of process in relation to any proceedings before the English courts in connection with any Finance Document; and

- (ii) agrees that failure by a process agent to notify the relevant Transaction Obligor of the process will not invalidate the proceedings concerned.
- (b) If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Borrower (on behalf of all the Transaction Obligors) must promptly (and in any event within fifteen (15) days of such event taking place) appoint another agent on terms acceptable to the Agent. Failing this, the Agent may appoint another agent for this purpose.

**THIS AGREEMENT** has been entered into on the date stated at the beginning of this Agreement.

**SCHEDULE 1  
THE ORIGINAL PARTIES**

**PART I  
THE OBLIGORS**

**BORROWER**

Name of Borrower	Jurisdiction of Incorporation	Registered Address and, if applicable, Registration No.	Address for Communication
Global Ship Lease Investments, Inc.	Republic of the Marshall Islands	Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, the Republic of the Marshall Islands, MH 96960  Registration No.: 43227	c/o Global Ship Lease Services Limited, Portland House, Stag Place, London SW1E 5RS, United Kingdom  Email: notices@globalshiplinease.com

**PARENT**

Name of Parent	Jurisdiction of Incorporation	Registered Address and, if applicable, Registration No.	Address for Communication
GSL Holdings, Inc.	Republic of the Marshall Islands	Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, the Republic of the Marshall Islands, MH 96960  Registration No.: 96041	c/o Global Ship Lease Services Limited, Portland House, Stag Place, London SW1E 5RS, United Kingdom  Email: notices@globalshiplinease.com

**ULTIMATE PARENT**

Name of Ultimate Parent	Jurisdiction of Incorporation	Registered Address and, if applicable, Registration No.	Address for Communication
Global Ship Lease, Inc.	Republic of the Marshall Islands	Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, the Republic of the Marshall Islands, MH 96960  Registration No.: 28891	c/o Global Ship Lease Services Limited, Portland House, Stag Place, London SW1E 5RS, United Kingdom  Email: notices@globalshiplinease.com

**ORIGINAL VESSEL OWNER**

<b>Name of Original Vessel Owner</b>	<b>Jurisdiction of Incorporation</b>	<b>Registered Address and, if applicable, Registration No.</b>	<b>Address for Communication</b>
Global Ship Lease 26 Limited	Hong Kong	27 <sup>th</sup> Floor Alexandra House, 18 Chater Road, Central, Hong Kong  Registration No.: 2660652	c/o Global Ship Lease Services Limited, Portland House, Stag Place, London SW1E 5RS, United Kingdom  Email: notices@globalshiplease.com

**PART II  
THE ORIGINAL LENDERS**

**ORIGINAL LENDERS**

<b>Name of Original Lender</b>	<b>Total Commitment (USD)</b>	<b>Address for Communication</b>
Hayfin DLF II LuxCo 2 Sàrl	48,903,094.69	5, rue Guillaume Kroll, L-1882 Luxembourg Fax: +44 207 785 6829 E-mail: loanops@hayfin.com
Hayfin Onyx LuxCo 2 SCA	3,672,996.08	5, rue Guillaume Kroll, L-1882 Luxembourg Fax: +44 207 785 6829 E-mail: loanops@hayfin.com
Hayfin Opal III LP	4,591,245.10	One Eagle Place, London SW1Y 6AF Fax: +44 207 785 6829 E-mail: loanops@hayfin.com
Hayfin Topaz Luxco 2 SCA	1,469,198.43	5, rue Guillaume Kroll, L-1882 Luxembourg Fax: +44 207 785 6829 E-mail: loanops@hayfin.com
Hayfin REST Luxco Sàrl	3,672,996.08	5, rue Guillaume Kroll, L-1882 Luxembourg Fax: +44 207 785 6829 E-mail: loanops@hayfin.com
Hayfin PT Luxco 2 Sàrl	2,690,469.63	5, rue Guillaume Kroll, L-1882 Luxembourg Fax: +44 207 785 6829 E-mail: loanops@hayfin.com
<b>Total</b>	<b>65,000,000.00</b>	

**PART III**  
**AGENT AND SECURITY AGENT**

**AGENT**

<b>Name of Agent</b>	<b>Address for Communication</b>
Hayfin Services LLP	One Eagle Place, London, SW1Y 6AF, England Fax: +44 207 785 6829 E-mail: loanops@hayfin.com Attention: Loan Operations

**SECURITY AGENT**

<b>Name of Security Agent</b>	<b>Address for Communication</b>
Hayfin Services LLP	One Eagle Place, London, SW1Y 6AF, England Fax: +44 207 785 6829 E-mail: loanops@hayfin.com Attention: Loan Operations

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**SCHEDULE 2  
CONDITIONS PRECEDENT**

**PART I  
CONDITIONS PRECEDENT TO FIRST UTILISATION REQUEST**

- (1) **Constitutional documents.** Copies of the constitutional documents of each Obligor, together with such other evidence as the Agent may reasonably require that each Obligor is duly incorporated in its country of incorporation and remains in existence with power to enter into, and perform its obligations under, the Relevant Documents to which it is or is to become a party.
  - (2) **Certificates of good standing.** A certificate of good standing in respect of each Transaction Obligor (or equivalent evidence of good standing available in the Obligor's jurisdiction of incorporation) dated no more than fourteen (14) days before the Utilisation Date or, in the case of the Original Vessel Owner, the Certificate of Continuing Registration issued by the Hong Kong Companies Registry dated no more than two (2) Business Days prior to the Utilisation Request.
  - (3) **Board resolutions.** A copy of the resolutions of the board of directors of each Obligor:
    - i. approving the terms of, and the transactions contemplated by, the Relevant Documents to which it is a party and resolving that it execute those Relevant Documents; and
    - ii. authorising a specified person or persons to execute those Relevant Documents (and all documents and notices to be signed and/or dispatched under those documents) on its behalf.
  - (4) **Shareholder resolutions.**
    - i. A copy of a resolution signed by the Borrower as sole shareholder of the Original Vessel Owner approving the terms of, and the transactions contemplated by, the Relevant Documents to which the Original Vessel Owner is a party.
    - iii. If required as a matter of law of any other Obligor's jurisdiction of incorporation, a copy of a resolution signed by all the holders of the issued shares in that Obligor, approving the terms of, and the transactions contemplated by, the Relevant Documents to which it is a party.
  - (5) **Specimen signatures.** A specimen of the signature of each person who executes the Finance Documents pursuant to the resolutions referred to in paragraph (3) above.
  - (6) **Officer's certificates.** An original certificate of a director of the Original Vessel Owner or a duly authorised officer of each other Obligor:
    - i. certifying that each copy document relating to it specified in this Part I of Schedule 2 is correct, complete and in full force and effect;
    - ii. setting out the names of the directors, officers and (other than the Ultimate Parent) shareholders of that Obligor and the proportion of shares held by each shareholder; and
    - iii. confirming that borrowing or guaranteeing or securing, as appropriate, the Loan would not cause any borrowing, guarantee, security or similar limit binding on that Obligor to be exceeded.
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- (7) **Evidence of registration.** Where such registration is required or permitted under the laws of the relevant jurisdiction, evidence that the names of the directors, officers and shareholders of each Obligor are duly registered in the companies registry or other registry in the country of incorporation of that Obligor.
- (8) **Powers of attorney.** A copy of the (if required) notarially attested power of attorney of each of the Obligors under which the Relevant Documents to which it is or is to become a party are to be executed or transactions undertaken by that Obligor.
- (9) **Facility Agreement.** A duly executed original of this Agreement.
- (10) **Share Charges.** Duly executed originals of the Share Charges in respect of the Borrower and the Original Vessel Owner and the ancillary documents thereunder.
- (11) **Accounts Security.** A duly executed original of the Accounts Security in relation to the Dry Docking Reserve Account, the Minimum Liquidity Account and the Earnings Account of the Original Vessel Owner (and each document to be delivered thereunder).
- (12) **Mandates.** Such duly signed forms of mandate, and/or other evidence of the opening of the Accounts described in paragraph 11 above, as the Security Agent may require.
- (13) **Subordination and Assignment Agreement.** The duly executed original of the Subordination and Assignment Agreement.
- (14) **Permitted Intercompany Debt.** If applicable, copies of any executed documents in respect of existing Permitted Intercompany Debt.
- Other documents and evidence**
- (15) **Process agent.** Evidence that any process agent referred to in Clause 44.2 (*Service of process*) and any process agent appointed under any other Finance Document has accepted its appointment.
- (16) **Other Authorisations.** A copy of any other authorisation or other document, opinion or assurance which the Agent considers to be necessary or desirable (if it has notified the Borrower accordingly) in connection with the entry into and performance of the transactions contemplated by any Relevant Document or for the validity and enforceability of any Relevant Document.
- (17) **Financial statements.** Copies of the Original Financial Statements.
- (18) **Fees.** The Fee Letter and evidence that the fees, costs and expenses then due from the Borrower under Clause 11 (*Fees*) and Clause 16 (*Costs and expenses*) have been paid or will be paid by the Utilisation Date.
- (19) **“Know your customer” documents.** Such documentation and other evidence as is reasonably requested by the Agent in order for the Lenders to comply with all necessary “know your customer” or similar identification procedures, anti-money laundering regulations, and Sanctions, in relation to the transactions contemplated in the Finance Documents.
- (20) **Structure Chart.** A chart showing the structure of the Group.
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**PART II**  
**CONDITIONS PRECEDENT TO FIRST UTILISATION**

- (1) **Officer's certificate.** An original certificate of a duly authorised officer of the Borrower certifying that:
    - i. each copy document relating to it specified in Part I of Schedule 2 remains correct, complete and in full force and effect on the Utilisation Date;
    - ii. each copy document relating to it specified in this Part II of Schedule 2 remains correct, complete and in full force and effect on the Utilisation Date.
  - (2) **Evidence of Original Vessel Owner's title.** Certificate of ownership and encumbrance (or equivalent) issued by the Registrar of Ships (or equivalent official) of the Initial Vessel's Approved Flag confirming that the Initial Vessel is owned by the Original Vessel Owner and is free of registered Security other than Permitted Security.
  - (3) **Registration of Mortgages.** Evidence that a Mortgage has been registered against the Initial Vessel with first priority.
  - (4) **Evidence of insurance.** Evidence that the Initial Vessel is insured in the manner required by the Finance Documents and that letters of undertaking will be issued in the manner required by the Finance Documents, together with (if required by the Agent) the written approval of the Insurances in respect of the Initial Vessel by an insurance adviser appointed by the Agent.
  - (5) **Confirmation of class.** A Certificate of Confirmation of Class confirming that the Initial Vessel is classed with the classification and with the Classification Society described in Schedule 8 (*Details of Initial Vessel*) free of recommendations affecting class (except as disclosed to and approved by the Agent prior to the first Utilisation Date), dated no more than three (3) days prior to the Utilisation Date.
  - (6) **Physical inspection or inspection report.** If required by the Agent, a physical inspection of the Initial Vessel (at the cost of the Borrower) by the Agent or its representative and/or, if available to the Obligors an inspection report in respect of the Initial Vessel.
  - (7) **Insurance report.** An opinion from independent insurance consultants appointed by the Agent on the Insurances in respect of the Initial Vessel.
  - (8) **Valuations.** Two Valuations of the Initial Vessel from Approved Brokers nominated by the Agent, addressed to the Agent on behalf of the Finance Parties and dated not earlier than twenty (20) Business Days before the Utilisation Date, which show compliance with the Maximum Tranche Amount for the Initial Vessel.
  - (9) **Operating Expenses and G&A Expenses budget.** Operating Expenses and G&A Expenses budget for the Initial Vessel.
  - (10) **Vessel documents.** In respect of the Initial Vessel, copies of:
    - i. (if applicable) the Charter;
    - ii. the relevant MOA and the delivery documents provided to the Original Vessel Owner at delivery under such MOA;
    - iii. any Management Agreements in respect of the Initial Vessel;
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- iv. the Initial Vessel's current Safety Construction, Safety Equipment, Safety Radio and Load Line Certificates;
- v. (if applicable) evidence of the Initial Vessel's current Certificate of Financial Responsibility issued pursuant to the United States Oil Pollution Act 1990;
- vi. the Initial Vessel's current SMC;
- vii. the ISM Company's current DOC;
- viii. the Initial Vessel's current ISSC;
- ix. the Initial Vessel's current IAPPC; and
- x. the Initial Vessel's current Tonnage Certificate,

in each case together with all addenda, amendments or supplements.

(11) **Security Documents.** In respect of the Initial Vessel, duly executed originals of:

- i. the Mortgage in respect of the Initial Vessel;
- ii. if applicable, the Deed of Covenants in respect of the Initial Vessel;
- iii. the General Assignment in respect of the Initial Vessel; and
- iv. the Manager's Undertakings in respect of the Initial Vessel,

together with all other documents required by any of them, including, without limitation, all notices of assignment and/or charge and evidence that those notices will be duly acknowledged by the recipients.

(12) **Charter Assignment.** If applicable, the duly executed original of the Charter Assignment in respect of the Initial Vessel, together with the duly executed notice of assignment to charterer and duly executed acknowledgement of assignment.

(13) **Utilisation Request.** The duly completed Utilisation Request.

(14) **Evidence of compliance with covenant requirements.** Evidence that the relevant Obligor is in compliance with the financial covenants in Clause 20.1 (*Financial Covenants*) on the Utilisation Date.

(15) **Minimum liquidity amount.** Evidence that an amount of US\$500,000 in respect of the Initial Vessel has been deposited into the Minimum Liquidity Account.

(16) **Initial Dry Docking Equity Contribution.** If applicable, evidence that the Initial Dry Docking Equity Contribution in respect of the Initial Vessel has been deposited in the Dry Docking Reserve Account.

(17) **Special surveys and dry dockings.** Evidence of completion by the Initial Vessel of its last special survey and the estimated timings of all scheduled dry docks and special surveys for the Initial Vessel from the Utilisation Date until the end of the Facility Period, in each case to the extent available from class or other records.

(18) **Source of funds.** Where the acquisition of the Initial Vessel is funded with a Fresh Equity Injection or Permitted Intercompany Debt from the Ultimate Parent to the Parent (which in

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turn is down-streamed to the Borrower from the Parent with a Fresh Equity Injection or Permitted Intercompany Debt), evidence that the refinancing of the Initial Vessel (together with the transaction costs and expenses, the US\$500,000 additional cash required to meet the Minimum Liquidity Requirement, the amount necessary to pay the Initial Dry Docking Equity Contribution and the US\$250,000 Working Capital Requirement in connection with the Initial Vessel) is funded entirely with a Fresh Equity Injection and/or Permitted Intercompany Debt from the Ultimate Parent to the Parent (which in turn is down-streamed to the Borrower from the Parent with a Fresh Equity Injection or Permitted Intercompany Debt).

- (19) **Evidence of down-streaming.** Where the refinancing of the Initial Vessel is funded partly with a Tranche, evidence of the down-streaming by the Ultimate Parent of a Fresh Equity Injection or Permitted Intercompany Debt to the Parent (and in turn from the Parent to the Borrower with a Fresh Equity Injection or Permitted Intercompany Debt) in an amount necessary to fund (i) any portion of the purchase price and related expenses which are not permitted to be funded with any Tranche, (ii) the US\$500,000 required in connection with the Minimum Liquidity Requirement in connection with the Initial Vessel, (iii) the Initial Dry Docking Equity Contribution, and (iv) the US\$250,000 required in connection with the Working Capital Requirement in connection with the Initial Vessel.
- (20) **Permitted Intercompany Debt.** If applicable, copies of any executed documents in respect of any Permitted Intercompany Debt.

#### **Legal opinions**

- (21) **Legal opinions.** The following legal opinions, each addressed to the Agent, the Security Agent and the Lenders and capable of being relied upon by any persons who become Lenders pursuant to the primary syndication of the Loan or confirmation satisfactory to the Agent that such opinions will be given:
- i. legal opinion of Reed Smith LLP, legal advisers to the Finance Parties in respect of English law, substantially in the form distributed to the Original Lenders prior to Utilisation;
  - ii. legal opinion of Reed Smith LLP, legal advisers to the Finance Parties in respect of Marshall Islands law, substantially in the form distributed to the Original Lenders prior to Utilisation;
  - iii. legal opinion of Reed Smith Richards Butler, legal advisers to the Finance Parties in respect of Hong Kong law, substantially in the form distributed to the Original Lenders prior to Utilisation;
  - iv. legal opinion of Reed Smith LLP, legal advisers to the Finance Parties in respect of the laws of Liberia, substantially in the form distributed to the Original Lenders prior to Utilisation;
  - v. legal opinion of Loyens & Loeff N.V., legal advisers to the Finance Parties in respect of the laws of the Netherlands, substantially in the form distributed to the Original Lenders prior to Utilisation.
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**PART III**  
**CONDITIONS PRECEDENT REQUIRED TO BE DELIVERED BY EACH ADDITIONAL VESSEL OWNER**

- (1) **Accession Letter.** An Accession Letter duly executed by the relevant Additional Vessel Owner and the Borrower.
  - (2) **Constitutional documents.** A copy of the constitutional documents of the relevant Additional Vessel Owner, together with such other evidence as the Agent may reasonably require that the Additional Vessel Owner is duly incorporated in its country of incorporation and remains in existence with power to enter into, and perform its obligations under, the Finance Documents to which it is or is to become a party.
  - (3) **Certificate of good standing.** A certificate of good standing in respect of the relevant Additional Vessel Owner (or equivalent evidence of good standing available in the Additional Vessel Owner's jurisdiction of incorporation) dated not more than ten (10) days before the date of the Accession Letter.
  - (4) **Board resolutions.** A copy of a resolutions of the board of directors of the relevant Additional Vessel Owner:
    - i. approving the terms of, and the transactions contemplated by, the Accession Letter and the other Relevant Documents to which it is a party and resolving that it execute the Accession Letter and those Relevant Documents; and
    - ii. authorising a specified person or persons to execute the Accession Letter and those Relevant Documents (and all documents and notices to be signed and/or dispatched under those documents) on its behalf.
  - (5) **Shareholder resolutions.** If required as a matter of law of the jurisdiction of incorporation of the relevant Additional Vessel Owner, a copy of a resolution signed by all the holders of the issued shares in the Additional Vessel Owner, approving the terms of, and the transactions contemplated by, the Relevant Documents to which it is a party.
  - (6) **Specimen signatures.** A specimen of the signature of each person authorised by the resolutions referred to in paragraph (4) above.
  - (7) **Officer's certificate.** An original certificate of a duly authorised officer of the relevant Additional Vessel Owner:
    - i. certifying that each copy document listed in this Part III of Schedule 2 is correct, complete and in full force and effect as at a date no earlier than the date of the Accession Letter;
    - ii. setting out the names of the directors, officers and shareholders of the Additional Vessel Owner and the proportion of shares held by each shareholder; and
    - iii. confirming that guaranteeing or securing the Loan would not cause any guarantee, security or similar limit binding on that Additional Vessel Owner to be exceeded.
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- (8) **Evidence of registration.** Where such registration is required or permitted under the laws of the relevant jurisdiction, evidence that the names of the directors, officers and shareholders of the relevant Additional Vessel Owner are duly registered in the companies registry or other registry in the country of incorporation of that Additional Vessel Owner.
- (9) **Powers of attorney.** A copy of the (if required) notarially attested power of attorney of the relevant Additional Vessel Owner under which the Accession Letter and other Relevant Documents to which it is or is to become a party are to be executed or transactions undertaken by the Additional Vessel Owner.
- (10) **Share Charge.** A duly executed original of the Share Charge in respect of the relevant Additional Vessel Owner and the ancillary documents thereunder.
- (11) **Accounts Security.** A duly executed original of the Accounts Security in relation to the Earnings Account held by the relevant Additional Vessel Owner (and each document to be delivered thereunder).
- (12) **Mandates.** Such duly signed forms of mandate, and/or other evidence of the opening of the Earnings Account held by the relevant Additional Vessel Owner, as the Security Agent may require.
- (13) **Permitted Intercompany Debt.** If applicable, copies of any executed documents in respect of existing Permitted Intercompany Debt in respect of the relevant Additional Vessel Owner.
- (14) **Other authorisations.** A copy of any other authorisation or other document, opinion or assurance which the Agent considers to be necessary or desirable (if it has notified the Borrower accordingly) in connection with the entry into and performance of the transactions contemplated by the Accession Letter and any other Relevant Document or for the validity and enforceability of any Relevant Document.
- (15) **Process agent.** Evidence that the process agent specified in Clause 44.2 (*Service of process*) has accepted its appointment in relation to the proposed Additional Vessel Owner.
- (16) **Legal opinions.** The following legal opinions, each addressed to the Agent, the Security Agent and the Lenders and capable of being relied upon by any persons who become Lenders pursuant to the primary syndication of the Loan:
- i. legal opinion of Reed Smith LLP, legal advisers to the Finance Parties in respect of English law; and
  - ii. legal opinion from counsel appointed as legal advisers to the Finance Parties in respect of the laws of the jurisdiction of incorporation of the relevant Additional Vessel Owner.
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**PART IV**  
**CONDITIONS PRECEDENT TO A PERMITTED ACQUISITION**

- (1) **Evidence of Vessel Owner's title.** Certificate of ownership and encumbrance (or equivalent) issued by the Registrar of Ships (or equivalent official) of the relevant Additional Vessel's Approved Flag confirming that such Additional Vessel is owned by the relevant Vessel Owner and is free of registered Security other than Permitted Security.
  - (2) **Registration of Mortgage.** Evidence that a Mortgage shall be registered against the relevant Additional Vessel with first priority.
  - (3) **Evidence of insurance.** Evidence that the relevant Additional Vessel is insured in the manner required by the Finance Documents and that letters of undertaking will be issued in the manner required by the Finance Documents, together with (if required by the Agent) the written approval of the Insurances in respect of the relevant Additional Vessel by an insurance adviser appointed by the Agent.
  - (4) **Confirmation of class.** A Certificate of Confirmation of Class confirming that the relevant Additional Vessel is classed with the Classification free of recommendations affecting class (except as disclosed to and approved by the Agent prior to the relevant Utilisation Date), dated no more than three (3) days prior to the acquisition date.
  - (5) **Physical inspection or inspection report.** If required by the Agent, a physical inspection of the relevant Additional Vessel (at the cost of the Borrower) by the Agent or its representative and/or, if available to the Obligors an inspection report in respect of the relevant Additional Vessel.
  - (6) **Insurance report.** An opinion from independent insurance consultants appointed by the Agent on the Insurances in respect of the relevant Additional Vessel.
  - (7) **Vessel documents.** In respect of the relevant Additional Vessel, copies of:
    - i. (if applicable) the Charter;
    - ii. the relevant MOA and the delivery documents provided to the relevant Vessel Owner at delivery under such MOA;
    - iii. any Management Agreements in respect of that Additional Vessel;
    - iv. that Additional Vessel's current Safety Construction, Safety Equipment, Safety Radio and Load Line Certificates;
    - v. (if applicable) evidence of that Additional Vessel's current Certificate of Financial Responsibility issued pursuant to the United States Oil Pollution Act 1990;
    - vi. that Additional Vessel's current SMC;
    - vii. the ISM Company's current DOC;
    - viii. that Additional Vessel's current ISSC;
    - ix. that Additional Vessel's current IAPPC; and
    - x. that Additional Vessel's current Tonnage Certificate,in each case together with all addenda, amendments or supplements.
-



- (8) **Security Documents.** In respect of the relevant Additional Vessel, duly executed originals of:
- i. the Mortgage in respect of that Vessel;
  - ii. if applicable, the Deed of Covenants in respect of that Vessel;
  - iii. the General Assignment in respect of that Vessel; and
  - iv. the Manager's Undertakings in respect of that Vessel,
- together with all other documents required by any of them, including, without limitation, all notices of assignment and/or charge and evidence that those notices will be duly acknowledged by the recipients.
- (9) **Charter Assignment.** If applicable, the duly executed original of the Charter Assignment in respect of the relevant Additional Vessel, together with the duly executed notice of assignment to charterer.
- (10) **Initial Dry Docking Equity Contribution.** If applicable, evidence that the Initial Dry Docking Equity Contribution in respect of the relevant Additional Vessel has been deposited in the Dry Docking Reserve Account.
- (11) **Special surveys and dry dockings.** Evidence of completion by the relevant Additional Vessel of its last special survey and the dates of all scheduled dry docks and special surveys for that Additional Vessel from its acquisition date until the end of the Facility Period, in each case to the extent available from class or other records.
- (12) **Source of funds.** Where the acquisition of the relevant Additional Vessel is funded with Excess Cash and/or a Fresh Equity Injection or Permitted Intercompany Debt from the Ultimate Parent to the Parent (which in turn is down-streamed to the Borrower from the Parent with a Fresh Equity Injection or Permitted Intercompany Debt), evidence that the acquisition of the relevant Additional Vessel (together with the transaction costs and expenses, the US\$500,000 additional cash required to meet the Minimum Liquidity Requirement, the amount necessary to pay the Initial Dry Docking Equity Contribution and the US\$250,000 Working Capital Requirement in connection with the relevant Vessel to be acquired) is funded entirely with Excess Cash and/or Permitted Intercompany Debt from the Ultimate Parent to the Parent (which in turn is down-streamed to the Borrower from the Parent and to the Additional Vessel Owner by the Borrower with a Fresh Equity Injection or Permitted Intercompany Debt).
- (13) **Evidence of down-streaming.** Where the acquisition of the relevant Additional Vessel is funded partly with a Tranche, evidence of the down-streaming by the Ultimate Parent of a Fresh Equity Injection or Permitted Intercompany Debt to the Parent (and in turn from the Parent to the Borrower and to the relevant Additional Vessel Owner by the Borrower with a Fresh Equity Injection or Permitted Intercompany Debt) in an amount necessary to fund (i) any portion of the purchase price and related expenses which are not permitted to be funded with any Tranche, (ii) the US\$500,000 required in connection with the Minimum Liquidity Requirement in connection with the relevant Additional Vessel, (iii) the Initial Dry Docking Equity Contribution, and (iv) the US\$250,000 required in connection with the Working Capital Requirement in connection with the relevant Additional Vessel.
- (14) **Permitted Intercompany Debt.** If applicable, copies of any executed documents in respect of any Permitted Intercompany Debt.
-

## Legal opinions

- (15) **Legal opinions.** The following legal opinions, each addressed to the Agent, the Security Agent and the Lenders and capable of being relied upon by any persons who become Lenders pursuant to the primary syndication of the Loan or confirmation satisfactory to the Agent that such opinions will be given:
- i. legal opinion of Reed Smith LLP, legal advisers to the Finance Parties in respect of English law, substantially in the form distributed to the Original Lenders prior to Utilisation;
  - ii. legal opinion of the legal advisers to the Finance Parties in respect of the jurisdiction of the Additional Vessel's Approved Flag, substantially in the form distributed to the Original Lenders prior to Utilisation; and
  - iii. legal opinion of the legal advisers to the Finance Parties in respect of the governing law of the Security Documents, substantially in the form distributed to the Original Lenders prior to Utilisation.
-

**PART V**  
**CONDITIONS PRECEDENT TO EACH SUBSEQUENT UTILISATION**

- (1) **Officer's certificate.** An original certificate of a duly authorised officer of the Borrower certifying that each copy document relating to it specified in Parts III to IV of Schedule 2 remains correct, complete and in full force and effect on the Utilisation Date.
  - (2) **Valuations.** Two Valuations of the relevant Vessel from Approved Brokers nominated by the Agent, addressed to the Agent on behalf of the Finance Parties and dated not earlier than twenty (20) Business Days before the Utilisation Date, which shows compliance with the Maximum Tranche Amount for that Vessel.
  - (3) **Utilisation Request.** The duly completed Utilisation Request.
  - (4) **Evidence of compliance with covenant requirements.** Evidence that the Obligor is in compliance with the financial covenants in Clause 20.1(a) and (b) (*Financial Covenants*) on the Utilisation Date.
-

**PART VI**  
**CONDITIONS SUBSEQUENT**

- (1) **Letters of undertaking.** Letters of undertaking in respect of the Insurances as required by the Security Documents together with copies of the relevant policies or cover notes or entry certificates duly endorsed with the interest of the Finance Parties.
  - (2) **Acknowledgements of notices.** Acknowledgements of all notices of assignment and/or charge given pursuant to any Security Documents received by the Agent pursuant to Part I, Part II, Part III or Part IV (as the case may be) of this Schedule 2.
  - (3) **Legal opinions.** Such of the legal opinions specified in Part II, Part III or Part IV (as the case may be) of this Schedule 2 as have not already been provided to the Agent.
  - (4) **Companies Act registrations.** Evidence that the prescribed particulars of any Security Documents received by the Agent pursuant to Part I, Part II, Part III or Part IV (as the case may be) of this Schedule 2 have been delivered to, and registered with, any relevant Registry of Companies/Corporations within the statutory time limit.
  - (5) **Master's receipt.** The master's receipt for each Mortgage (if applicable).
-

**SCHEDULE 3  
UTILISATION REQUEST**

From: [Borrower]

To: [Agent]

Dated:

Dear Sirs

**Facility Agreement dated [●] 2018 for up to the amount of US\$65,000,000, as amended and restated from time to time (the “Agreement”)**

- (1) We refer to the Agreement. This is a Utilisation Request. Terms defined in the Agreement have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request.
- (2) We wish to borrow Tranche [●] on the following terms:  
  
Proposed Utilisation Date: [●] (or, if that is not a Business Day, the next Business Day)  
  
Amount: [●] or, if less, the Available Facility
- (3) We confirm that each condition specified in Clause 4.1 (*Initial Conditions Precedent*) is satisfied on the date of this Utilisation Request.
- (4) The proceeds of the Utilisation should be credited to [*account details*].
- (5) We confirm that you may disburse the Tranche and deduct from the Tranche (although the amount of the Tranche will remain the amount requested above):
  - (a) [the Upfront Fee being US\$[●]];
  - (b) [the Commitment Fee payable up to the Utilisation Date, being US\$[●]];
  - (c) [other costs/fees].
- (6) This Utilisation Request is irrevocable.

Yours faithfully

---

authorised signatory for  
[Borrower]

---

**SCHEDULE 4**  
**FORM OF TRANSFER CERTIFICATE**

To: [●] as Agent

From: [*The Existing Lender*] (the “**Existing Lender**”) and [*The New Lender*] (the “**New Lender**”)

Dated:

**Facility Agreement dated [●] 2018 for up to the amount of US\$65,000,000, as amended and restated from time to time (the “Agreement”)**

- (1) We refer to the Agreement. This is a Transfer Certificate. Terms defined in the Agreement have the same meaning in this Transfer Certificate unless given a different meaning in this Transfer Certificate.
- (2) We refer to 27.5 (*Procedure for transfer*) of the Agreement:
  - (a) The Existing Lender and the New Lender agree to the Existing Lender transferring to the New Lender by novation and in accordance with Clause 27.5 (*Procedure for transfer*) all of the Existing Lender’s rights and obligations under the Agreement and the other Finance Documents which relate to that portion of the Existing Lender’s Commitment and participation in Loans under the Agreement as specified in the Schedule.
  - (b) The proposed Transfer Date is [●].
  - (c) The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of Clause 36.2 (*Addresses*) of the Agreement are set out in the Schedule.
- (3) The New Lender expressly acknowledges the limitations on the Existing Lender’s obligations set out in paragraph (iii) of Clause 27.4 (*Limitation of responsibility of Existing Lenders*) of the Agreement.
- (4) This Transfer Certificate may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Transfer Certificate.
- (5) This Transfer Certificate and any non-contractual obligations arising out of or in connection with it are governed by English law.
- (6) This Transfer Certificate has been entered into on the date stated at the beginning of this Transfer Certificate.

**Note:** The execution of this Transfer Certificate may not transfer a proportionate share of the Existing Lender’s interest in the Transaction Security in all jurisdictions. It is the responsibility of the New Lender to ascertain whether any other documents or other formalities are required to perfect a transfer of such a share in the Existing Lender’s Transaction Security in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.

---

**COMMITMENT/RIGHTS AND OBLIGATIONS TO BE TRANSFERRED**

*[insert relevant details]*

*[Facility Office address, fax number and attention details for notices and account details for payments,]*

[Existing Lender]

[New Lender]

By:

By:

This Transfer Certificate is accepted by the Agent and the Transfer Date is confirmed as [●].

[Agent]

By:

---

**SCHEDULE 5  
FORM OF ASSIGNMENT AGREEMENT**

To: [●] as Agent and [●] as Borrower, for and on behalf of each Obligor

From: [the *Existing Lender*] (the “**Existing Lender**”) and [the *New Lender*] (the “**New Lender**”)

Dated:

**Facility Agreement dated [●] 2018 for up to the amount of US\$65,000,000, as amended and restated from time to time (the “Agreement”)**

- (1) We refer to the Agreement. This is an Assignment Agreement. Terms defined in the Agreement have the same meaning in this Assignment Agreement unless given a different meaning in this Assignment Agreement.
  - (2) We refer to Clause 27.6 (*Procedure for assignment*) of the Agreement:
    - (a) The Existing Lender assigns absolutely to the New Lender all the rights of the Existing Lender under the Agreement and the other Finance Documents which relate to that portion of the Existing Lender’s Commitment and participations in Loans under the Agreement as specified in the Schedule.
    - (b) The Existing Lender is released from all the obligations of the Existing Lender which correspond to that portion of the Existing Lender’s Commitment and participations in Loans under the Agreement specified in the Schedule.
    - (c) The New Lender becomes a Party as a Lender and is bound by obligations equivalent to those from which the Existing Lender is released under paragraph (b) above.
  - (3) The proposed Transfer Date is [●].
  - (4) On the Transfer Date the New Lender becomes Party to the Finance Documents as a Lender.
  - (5) The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of Clause 36.2 (*Addresses*) of the Agreement are set out in the Schedule.
  - (6) The New Lender expressly acknowledges the limitations on the Existing Lender’s obligations set out in paragraph (c) of Clause 27.4 (*Limitation of responsibility of Existing Lenders*) of the Agreement.
  - (7) This Assignment Agreement acts as notice to the Agent (on behalf of each Finance Party) and, upon delivery in accordance with Clause 27.7 (*Copy of Transfer Certificate or Assignment Agreement*) of the Agreement, to the Borrower (on behalf of each Obligor who is a party) of the assignment referred to in this Assignment Agreement.
  - (8) This Assignment Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Assignment Agreement.
  - (9) This Assignment Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
-



(10) This Assignment Agreement has been entered into on the date stated at the beginning of this Assignment Agreement.

---

**RIGHTS TO BE ASSIGNED AND OBLIGATIONS TO BE RELEASED AND UNDERTAKEN**

[insert relevant details]

[Facility office address, fax number and attention details for notices and account details for payments]

[Existing Lender]

[New Lender]

By:

By:

This Assignment Agreement is accepted by the Agent and the Transfer Date is confirmed as [●].

Signature of this Assignment Agreement by the Agent constitutes confirmation by the Agent of receipt of notice of the assignment referred to herein, which notice the Agent receives on behalf of each Finance Party.

[Agent]

By:

**Note:** The execution of this Assignment Agreement may not transfer a proportionate share of the Existing Lender's interest in the Security in all jurisdictions. It is the responsibility of the New Lender to ascertain whether any other documents or other formalities are required to perfect a transfer of such a share in the Existing Lender's Security in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.

---

**SCHEDULE 6  
FORM OF COMPLIANCE CERTIFICATE**

To: [Agent]

From: [Ultimate Parent]

Dated: [●]

Dear Sirs

**Facility Agreement dated [●] 2018 for up to the amount of US\$65,000,000, as amended and restated from time to time (the “Agreement”)**

- (1) We refer to the Agreement. This is a Compliance Certificate. Terms defined in the Agreement have the same meaning when used in this Compliance Certificate unless given a different meaning in this Compliance Certificate.
- (2) We confirm that:
  - (a) [●]; [and]
  - (b) [●]; [and]
  - (c) [●].
- (3) We set out below calculations establishing the figures in paragraph (2):  
[●].
- (4) We confirm that no Default is continuing. *[If this statement cannot be made, the certificate should identify any Default that is continuing and the steps, if any, being taken to remedy it.]*

Signed: \_\_\_\_\_

Authorised Officer  
of Ultimate Parent

---

**SCHEDULE 7  
TIMETABLES**

Delivery of a duly completed Utilisation Request (Clause 5.1 ( <i>Delivery of a Utilisation Request</i> ))	By 9.30 a.m. (London time) twelve (12) Business Days before the intended Utilisation Date
Agent notifies the Lenders of the Loan in accordance with Clause 5.4 ( <i>Lenders' participation</i> )	Three (3) Business Days before the intended Utilisation Date
LIBOR is fixed	Quotation Day as of 11:00 a.m. (London time)

---

**SCHEDULE 8  
DETAILS OF INITIAL VESSEL**

**INITIAL VESSEL**

<b>1. Name of Vessel:</b>	"GSL Valerie" (ex "Valerie Schulte")
<b>2. Description:</b>	Feeder container vessel built in 2005
<b>3. Owner:</b>	Global Ship Lease 26 Limited
<b>4. Date and description of MOA:</b>	Memorandum of agreement dated 23 February 2018 between the Seller (as defined below) and the Ultimate Parent
<b>5. Seller:</b>	Dr. Hagen Freiherr von Diepenbroick, having his business address at Moorfuhrweg 11, 22301 Hamburg, Germany, as Insolvency Administrator for the assets of MS "VALERIE SCHULTE" Shipping GmbH & Co. KG
<b>6. Flag State:</b>	Liberia
<b>7. IMO Number:</b>	9315874
<b>8. Registered / Official Number:</b>	18693
<b>9. Classification:</b>	1A1 Container carrier BIS DG(P) EO NAUTICUS (Newbuilding) TMON
<b>10. Classification Society:</b>	DNV-GL

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**SCHEDULE 9**  
**SCREEN RATE CONTINGENCY PERIODS**

**Screen Rate**  
LIBOR

**Period**  
3 months

---

**SCHEDULE 10  
FORM OF ACCESSION LETTER**

To: [Agent]

From: [Additional Vessel Owner] and [Borrower]

Dated: [●]

Dear Sirs

**Facility Agreement dated [●] 2018 for up to the amount of US\$65,000,000, as amended and restated from time to time (the “Agreement”)**

- (1) We refer to the Agreement. This is an Accession Letter. Terms defined in the Agreement have the same meaning in this Accession Letter unless given a different meaning in this Accession Letter.
- (2) [●] (the “**Additional Vessel Owner**”) agrees to become an Additional Vessel Owner and to be bound by the terms of the Agreement and the Subordination and Assignment Agreement as a Vessel Owner pursuant to Clause 28.2 (*Additional Vessel Owners*) of the Agreement. The Additional Vessel Owner is a [company][corporation] formed under the laws of [●].
- (3) The Borrower confirms that no Default is continuing or would occur as a result of the Additional Vessel Owner becoming a Vessel Owner under the Agreement.
- (4) The Additional Vessel Owner’s administrative details are as follows:  
  
Address:  
  
Email:  
  
Attention:
- (5) This Accession Letter and any non-contractual obligations arising out of or in connection with it are governed by English law.
- (6) This Accession Letter is entered into by deed.

[Borrower]

[Additional Vessel Owner]

---

**SCHEDULE 11  
EXAMPLE BUDGET**

	Vessel Owning Company		
	Vessel Name		
	Actual	Budget	Variance
<b>RECURRING OPERATING COSTS</b>			
CREWING COSTS	-	-	-
LUBRICANTS	-	-	-
CONSUMABLES	-	-	-
REPAIRS	-	-	-
SPARES	-	-	-
OTHER R&M	-	-	-
REPAIRS AND MAINTENANCE	-	-	-
OTHER DIRECT COSTS	-	-	-
TECHNICAL MANAGEMENT FEES	-	-	-
INSURANCE	-	-	-
SUB TOTAL	-	-	-
USD/DAY	-	-	-
<b>NON RECURRING OPERATING COSTS</b>			
Damage	-	-	-
Drydock	-	-	-
Capex Costs	-	-	-
Insurance Deductibles	-	-	-
Other Operating Costs	-	-	-
Off Hire Bunker Consumption	-	-	-
idle - Bunker Consumption	-	-	-
Vessel Inspection Costs	-	-	-
Vessel Valuation Costs	-	-	-
Miscellaneous Charter Expenditure	-	-	-
SUB TOTAL	-	-	-
TOTAL	-	-	-
TOTAL OPEX USD/DAY	-	-	-



EXECUTION PAGE

**BORROWER**

Signed by \_Thomas Lister \_\_\_\_\_  
for and on behalf of  
**GLOBAL SHIP LEASE INVESTMENTS,  
INC.**

)  
)  
)  
)

/s/ Thomas Lister  
\_\_\_\_\_  
Attorney-in-Fact

In the presence of:

Name: Ian J. Webber  
Address:

/s/ Ian J. Webber

**PARENT**

Signed by \_Thomas Lister \_\_\_\_\_  
for and on behalf of  
**GSL HOLDINGS, INC.**

)  
)  
)

/s/ Thomas Lister  
\_\_\_\_\_  
Attorney-in-Fact

In the presence of:

Name: Ian J. Webber  
Address:

/s/ Ian J. Webber

**ULTIMATE PARENT**

Signed by \_Thomas Lister \_\_\_\_\_  
for and on behalf of  
**GLOBAL SHIP LEASE, INC.**

)  
)  
)

/s/ Thomas Lister  
\_\_\_\_\_  
Attorney-in-Fact

In the presence of:

Name: Ian J. Webber  
Address:

/s/ Ian J. Webber



**ORIGINAL VESSEL OWNER**

Signed by Thomas Lister )  
attorney-in-fact, for and on behalf of )  
**GLOBAL SHIP LEASE 26 LIMITED** )

/s/ Thomas Lister  
Attorney-in-Fact

In the presence of:

Name: Ian J. Webber  
Address:

/s/ Ian J. Webber

**ORIGINAL LENDERS**

Signed by Karen Jemmisou )  
for and on behalf of )  
**HAYFIN DLF II LUXCO 2 SARL** )

/s/ Karen Jemmisou

In the presence of:

Name: Marie Barbei  
Address:illegible

/s/ Marie Barbei

Signed by Karen Jemmisou )  
for and on behalf of )  
**HAYFIN ONYX LUXCO 2 SCA**, acting by its )  
managing shareholder, **HAYFIN ONYX SARL** )

/s/ Karen Jemmisou

In the presence of:-

Name: Marie Barbei  
Address:illegible

/s/ Marie Barbei

Signed by illegible )  
for and on behalf of )  
**HAYFIN OPAL III LP**, acting by its general )  
partner, **HAYFIN OPAL III GP LIMITED** )

/s/ illegible

In the presence of:

Name: Dionne Longmore  
Address:One Eagle Place, SW1Y, 6AF

/s/ Dionne Longmore



Signed by \_ Karen Jemmisou \_\_\_\_\_  
for and on behalf of  
**HAYFIN TOPAZ LUXCO 2 SCA**, acting by  
its managing shareholder, **HAYFIN TOPAZ  
SARL**

)  
)  
)  
)  
)

/s/ Karen Jemmisou

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In the presence of:

Name: Marie Barbei  
Address: illegible

/s/ Marie Barbei

Signed by \_\_ Karen Jemmisou \_\_\_\_\_  
for and on behalf of  
**HAYFIN REST LUXCO SARL**

)  
)  
)

/s/ Karen Jemmisou

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In the presence of:-

Name: Marie Barbei  
Address: illegible

/s/ Marie Barbei

Signed by \_ Karen Jemmisou \_\_\_\_\_  
for and on behalf of  
**HAYFIN PT LUXCO 2 SARL**

)  
)  
)

/s/ Karen Jemmisou

---

In the presence of:

Name: Marie Barbei  
Address: illegible

/s/ Marie Barbei

**AGENT**

Signed by \_ illegible \_\_\_\_\_  
for and on behalf of  
**HAYFIN SERVICES LLP**

)  
)  
)

/s/ illegible

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In the presence of:

Name: Dionne Longmore  
Address: One Eagle Place, SW1Y 6AF

/s/ Dionne Longmore

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**SECURITY AGENT**

Signed by \_\_\_\_\_  
for and on behalf of  
**HAYFIN SERVICES LLP**

)  
)  
)

/s/ illegible

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In the presence of:

/s/ Dionne Longmore

Name: Dionne Longmore  
Address: One Eagle Place, SW1Y 6AF

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Dated 26 February 2020

*US\$9,000,000*

**TERM LOAN FACILITY**

**ATHENA MARINE LLC  
APHRODITE MARINE LLC  
ARIS MARINE LLC**  
as joint and several Borrowers

and

**GLOBAL SHIP LEASE, INC.**  
as Parent Guarantor

and

**CHAILEASE INTERNATIONAL FINANCIAL SERVICES PTE., LTD.**  
as Lender

**FACILITY AGREEMENT**

for general corporate purposes and for the purpose of re- financing equity used for repayment of certain indebtedness secured on m.vs. "NEWYORKER", "NIKOLAS", "MAIRA"

**WATSON FARLEY  
&  
WILLIAMS**

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THIS AGREEMENT is made on 26 February 2020

## PARTIES

- (1) **ATHENA MARINE LLC**, a limited liability company formed in the Marshall Islands with registration number 961764 whose registered address is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, MH96960, the Marshall Islands as a borrower ("**Borrower A**")
- (2) **APHRODITE MARINE LLC**, a limited liability company formed in the Marshall Islands with registration number 961769 whose registered address is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, MH96960, the Marshall Islands as a borrower ("**Borrower B**")
- (3) **ARIS MARINE LLC**, a limited liability company formed in the Marshall Islands with registration number 961770 whose registered address is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, MH96960, the Marshall Islands as a borrower ("**Borrower C**")
- (4) **GLOBAL SHIP LEASE, INC.**, a corporation incorporated in the Marshall Islands with registration number 28891 whose registered address is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, MH96960, the Marshall Islands as a guarantor (the "**Parent Guarantor**")
- (5) **THE FINANCIAL INSTITUTIONS** listed in Part B of Schedule 1 (*The Parties*) as lenders (the "**Original Lenders**")

## BACKGROUND

The Lender has agreed to make available to the Borrowers a secured term loan facility of \$9,000,000 for general corporate purposes and for the purpose of re- financing equity used for repayment of certain indebtedness secured on the Ships.

## OPERATIVE PROVISIONS

## SECTION 1

### INTERPRETATION

#### 1 DEFINITIONS AND INTERPRETATION

##### 1.1 Definitions

In this Agreement:

**“Account Bank”** means ABN AMRO Bank N.V., acting through its office at 93 Coolsingel, 3012AE, Rotterdam, Netherlands as account bank or any replacement bank or other financial institution as may be approved by the Lender.

**“Account Security”** means a document creating Security over the Earnings Account in agreed form.

**“Advance”** means the borrowing of all or part of the Loan under this Agreement.

**“Affiliate”** means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

**“Approved Brokers”** means any firm or firms of insurance brokers approved in writing by the Lender.

**“Approved Classification”** means, in relation to a Ship, as at the date of this Agreement, the classification in relation to that Ship specified in Schedule 3 (*Details of the Ships*) or the equivalent classification with another Approved Classification Society.

**“Approved Classification Society”** means, in relation to a Ship, as at the date of this Agreement, the classification society in relation to that Ship specified in Schedule 3 (*Details of the Ships*) or any other classification society which is a member of the International Association of Classification Societies (or such other classification society which is approved in writing by the Lender such approval not to be unreasonably withheld).

**“Approved Commercial Manager”** means, in relation to a Ship:

- (a) Conchart Commercial Inc., a corporation incorporated in the Republic of the Marshall Islands whose registered address is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, MH96960, the Marshall Islands having established an office in Greece pursuant to L.27/1975 at 3-5 Menandrou Str.14561 Kifisia, Athens, Greece; or
- (b) any other person approved in writing by the Lender, as the commercial manager of that Ship,

being as at the date of this Agreement, the manager specified as the approved commercial manager in relation to that Ship in Schedule 3 (*Details of the Ships*).

**“Approved Flag”** means, in relation to a Ship, as at the date of this Agreement, the flag in relation to that Ship specified in Schedule 3 (*Details of the Ships*) or such other flag approved in writing by the Lender such approval not to be unreasonably withheld.

“**Approved Manager**” means, in relation to a Ship, the Approved Commercial Manager or the Approved Technical Manager of that Ship.

“**Approved Technical Manager**” means, in relation to a Ship:

- (a) Technomar Shipping Inc., a corporation incorporated in the Republic of Liberia whose registered address is at 80 Broad Street, Monrovia, Liberia having established an office in Greece pursuant to L.27/1975 at 3-5 Menandrou Str.14561 Kifisia, Athens, Greece; or
- (b) any other person approved in writing by the Lender as the technical manager of that Ship,

being as at the date of this Agreement, the manager specified as the approved technical manager in relation to that Ship in Schedule 3 (*Details of the Ships*).

“**Approved Valuer**” means Barry Rogliano Salles, Kontiki, Howe Robinson Partners, Maersk Brokers KS (or any Affiliate of such person through which valuations are commonly issued) and any other reputable firm or firms of independent sale and purchase shipbrokers with expertise in valuing containerships willing and able to provide valuation certificates that can be used in the New York Stock Exchange mutually agreed between the Lender and the Borrowers.

“**Assignable Charter**” means, in relation to a Ship, any Charter in respect of that Ship, having a duration exceeding (or capable of exceeding by way of optional extension or otherwise) 12 months.

“**Authorisation**” means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation, legalisation or registration.

“**Availability Period**” means the period from and including the date of this Agreement to and including 4 March 2020.

“**Available Facility**” means the Commitment minus:

- (a) the amount of the outstanding Loan; and
- (b) in relation to any proposed Utilisation, the amount of in the Advance that is due to be made on or before the proposed Utilisation Date.

“**Borrower**” means Borrower A, Borrower B or Borrower C.

“**Break Costs**” means the amount (if any) by which:

- (a) the interest which the Lender should have received for the period from the date of receipt of all or any part of the Loan or an **Unpaid Sum** to the last day of the current Interest Period in relation to the Loan, the relevant part of the Loan or that Unpaid Sum, had the principal amount or Unpaid Sum received been paid on the last day of that Interest Period;  
  
exceeds

- (b) the amount which the Lender would be able to obtain by placing an amount equal to the principal amount or Unpaid Sum received by it on deposit with a leading bank in the Relevant Interbank Market for a period starting on the Business Day following receipt or recovery and ending on the last day of the current Interest Period.

“**Business Day**” means a day (other than a Saturday or Sunday) on which banks are open for general business in London, Athens, Singapore, Rotterdam, Taiwan and New York.

“**Charter**” means, in relation to a Ship, any charter relating to that Ship, or other contract for its employment, whether or not already in existence.

“**Charter Guarantee**” means any guarantee, bond, letter of credit or other instrument (whether or not already issued) supporting a Charter (including any Assignable Charter), the form of which shall not be subject to the Lender’s prior approval.

“**Charterparty Assignment**” means, in relation to any Assignable Charter, an assignment of the relevant Borrower’s rights under that Assignable Charter (and any related Charter Guarantee) in favour of the Lender in agreed form.

“**Code**” means the US Internal Revenue Code of 1986.

“**Commercial Management Agreement**” means, in relation to a Ship, the agreement entered into between the Borrower owning that Ship and the Approved Commercial Manager of that Ship regarding the commercial management of that Ship.

“**Commitment**” means \$9,000,000 to the extent not cancelled or reduced under this Agreement.

“**Confidential Information**” means all information relating to any Transaction Obligor, any Approved Manager, the Group, the Finance Documents or the Facility of which the Lender becomes aware in its capacity as, or for the purpose of becoming, the Lender in relation to, the Finance Documents or the Facility from either any member of the Group or any of its advisers in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes:

- (a) information that:
- (i) is or becomes public information other than as a direct or indirect result of any breach by the Lender of Clause 39 (*Confidential Information*); or
  - (ii) is identified in writing at the time of delivery as non-confidential by any member of the Group or any of its advisers; or
  - (iii) is known by the Lender before the date the information is disclosed to it by any member of the Group or any of its advisers above or is lawfully obtained by the Lender after that date, from a source which is, as far as the Lender is aware, unconnected with the Group and which, in either case, as far as the Lender is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality; and
  - (iv) any Funding Rate.

**“Confidentiality Undertaking”** means a confidentiality undertaking in substantially the appropriate form recommended by the LMA from time to time or in any other form agreed between the Borrowers and the Lender.

**“Deed of Covenant”** means, in relation to a Ship and if required by the laws of the Approved Flag of that Ship, a deed of covenant collateral to the Mortgage over that Ship in agreed form.

**“Default”** means an Event of Default or a Potential Event of Default.

**“Delegate”** means any delegate, agent, attorney or co-trustee appointed by the Lender.

**“Disruption Event”** means either or both of:

- (a) a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with the Facility (or otherwise in order for the transactions contemplated by the Finance Documents to be carried out) which disruption is not caused by, and is beyond the control of, the Lender; or
- (b) the occurrence of any other event which results in a disruption (of a technical or systems-related nature) to the treasury or payments operations of a Party preventing that, or any other, Party:
  - (i) from performing its payment obligations under the Finance Documents; or
  - (ii) from communicating with other Parties in accordance with the terms of the Finance Documents,

and which (in either such case) is not caused by, and is beyond the control of, the Party whose operations are disrupted.

**“Document of Compliance”** has the meaning given to it in the ISM Code.

**“dollars”** and **“\$”** mean the lawful currency, for the time being, of the United States of America.

**“Earnings”** means, in relation to a Ship, all moneys whatsoever which are now, or later become, payable (actually or contingently) to a Borrower or the Lender and which arise out of or in connection with or relate to the use or operation of that Ship, including (but not limited to):

- (a) the following, save to the extent that any of them is, with the prior written consent of the Lender, pooled or shared with any other person:
  - (i) all freight, hire and passage moneys including, without limitation, all moneys payable under, arising out of or in connection with a Charter or a Charter Guarantee;
  - (ii) the proceeds of the exercise of any lien on sub-freights;
  - (iii) compensation payable to a Borrower or the Lender in the event of requisition of that Ship for hire or use;

- (iv) remuneration for salvage and towage services;
  - (v) demurrage and detention moneys;
  - (vi) without prejudice to the generality of sub-paragraph (i) above, damages for breach (or payments for variation or termination) of any charterparty or other contract for the employment of that Ship;
  - (vii) all moneys which are at any time payable under any Insurances in relation to loss of hire (if applicable from time to time);
  - (viii) all monies which are at any time payable to a Borrower in relation to general average contribution; and
- (b) if and whenever that Ship is employed on terms whereby any moneys falling within sub-paragraphs (i) to (viii) of paragraph (a) above are pooled or shared with any other person, that proportion of the net receipts of the relevant pooling or sharing arrangement which is attributable to that Ship.

**“Earnings Account”** means, in relation to a Borrower:

- (a) an account in the name of that Borrower with the Account Bank designated “Earnings Account”;
- (b) any other account in the name of that Borrower with the Account Bank which may, with the prior written consent of the Lender, be opened in the place of the account referred to in paragraph (a) above, irrespective of the number or designation of such replacement account; or
- (c) any sub-account of any account referred to in paragraphs (a) or (b) above.

**“EEA Member Country”** means any member state of the European Union, Iceland, Liechtenstein and Norway.

**“Emergency Event”** means, in relation to a Ship, an event or circumstance not within the relevant Borrower’s reasonable control affecting the Ship, life or property on board and/or the Ship’s operation including without limitation, hull failure, critical failure of vessel’s navigation system, cargo shift, machinery breakdown, an act of God, flood, drought, earthquake or other natural disaster, terrorist attack, civil war, riot, war or preparation for war, armed conflict, nuclear, chemical or biological contamination, fire explosion or accident, epidemic or pandemic, life threatening personnel injuries or illness.

**“Environmental Approval”** means any present or future permit, ruling, variance or other Authorisation required under Environmental Laws.

**“Environmental Claim”** means any claim by any governmental, judicial or regulatory authority or any other person which arises out of an Environmental Incident or an alleged Environmental Incident or which relates to any Environmental Law and, for this purpose, **“claim”** includes a claim for damages, compensation, contribution, injury, fines, losses and penalties or any other payment of any kind, including in relation to clean-up and removal, whether or not similar to the foregoing; an order or direction to take, or not to take, certain action or to desist from or suspend certain action; and any form of enforcement or regulatory action, including the arrest or attachment of any asset.

**“Environmental Incident”** means:

- (a) any release, emission, spill or discharge of Environmentally Sensitive Material whether within a Ship or from a Ship into any other vessel or into or upon the air, water, land or soils (including the seabed) or surface water; or
- (b) any incident in which Environmentally Sensitive Material is released, emitted, spilled or discharged into or upon the air, water, land or soils (including the seabed) or surface water from a vessel other than any Ship and which involves a collision between any Ship and such other vessel or some other incident of navigation or operation, in either case, in connection with which a Ship is actually or potentially liable to be arrested, attached, detained or injuncted and/or a Ship and/or any Transaction Obligor and/or any operator or manager (including an Approved Manager) of a Ship is at fault or allegedly at fault or otherwise liable to any legal or administrative action; or
- (c) any other incident in which Environmentally Sensitive Material is released, emitted, spilled or discharged into or upon the air, water, land or soils (including the seabed) or surface water otherwise than from a Ship and in connection with which a Ship is actually or potentially liable to be arrested and/or where any Transaction Obligor and/or any operator or manager (including an Approved Manager) of a Ship is at fault or allegedly at fault or otherwise liable to any legal or administrative action, other than in accordance with an Environmental Approval.

**“Environmental Law”** means any present or future law relating to pollution or protection of human health or the environment, to conditions in the workplace, to the carriage, generation, handling, storage, use, release or spillage of Environmentally Sensitive Material or to actual or threatened releases of Environmentally Sensitive Material.

**“Environmentally Sensitive Material”** means and includes all contaminants, oil, oil products, toxic substances and any other substance (including any chemical, gas or other hazardous or noxious substance) which is (or is capable of being or becoming) polluting, toxic or hazardous.

**“Event of Default”** means any event or circumstance specified as such in Clause 27 (*Events of Default*).

**“Facility”** means the term loan facility made available under this Agreement as described in Clause 2 (*The Facility*).

**“Facility Office”** means the office or offices through which the Lender will perform its obligations under this Agreement.

**“FATCA”** means:

- (a) sections 1471 to 1474 of the Code or any associated regulations;
- (b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; or

- (c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraphs (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction.

**"FATCA Deduction"** means a deduction or withholding from a payment under a Finance Document required by FATCA.

**"FATCA Exempt Party"** means a Party that is entitled to receive payments free from any FATCA Deduction.

**"Finance Document"** means:

- (a) this Agreement;
- (b) the Utilisation Request;
- (c) any Security Document;
- (d) any Subordination Agreement;
- (e) any other document which is executed for the purpose of establishing any priority or subordination arrangement in relation to the Secured Liabilities; or
- (f) any other document designated as such by the Lender and the Borrowers.

**"Financial Indebtedness"** means any indebtedness for or in relation to:

- (a) moneys borrowed;
- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in relation to any lease or hire purchase contract which would, in accordance with GAAP, be treated as a balance sheet liability (other than any liability in respect of a lease or hire purchase contract which would, in accordance with GAAP in force prior to 1 January 2019 have been treated as an operating lease).
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any amount raised under any other transaction (including any forward sale or purchase agreement) of a type not referred to in any other paragraph of this definition having the commercial effect of a borrowing;
- (g) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that derivative transaction, that amount) shall be taken into account);



- (h) any counter-indemnity obligation in relation to a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and
- (i) the amount of any liability in relation to any guarantee or indemnity for any of the items referred to in paragraphs (a) to (h) above.

“**Funding Rate**” means any individual rate notified by the Lender to an Obligor pursuant to any Finance Document.

“**GAAP**” means generally accepted accounting principles in US including IFRS.

“**General Assignment**” means, in relation to a Ship, the general assignment creating Security over that Ship’s Earnings, its Insurances and any Requisition Compensation in relation to that Ship, in agreed form.

“**GSL Rome**” means GSL Rome LLC, a limited liability company formed in the Marshall Islands whose registered address is at Trust Company Complex, Ajeltake Road, Ajeltake Island, MH96960, the Marshall Islands.

“**Group**” means the Parent Guarantor and its Subsidiaries for the time being.

“**Holding Company**” means, in relation to a person, any other person in relation to which it is a Subsidiary.

“**Increased Costs Negotiation Period**” has the meaning given to it in Clause 13.3 (*Payment of Increased Costs*).

“**IFRS**” means international accounting standards within the meaning of the IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements.

“**Indemnified Person**” has the meaning given to it in Clause 14.2 (*Other indemnities*).

“**Insurances**” means, in relation to a Ship:

- (a) all policies and contracts of insurance, including entries of that Ship in any protection and indemnity or war risks association, effected in relation to that Ship, that Ship’s Earnings (if applicable) or otherwise in relation to that Ship whether before, on or after the date of this Agreement; and
- (b) all rights and other assets relating to, or derived from, any of such policies, contracts or entries, including any rights to a return of premium and any rights in relation to any claim whether or not the relevant policy, contract of insurance or entry has expired on or before the date of this Agreement.

“**Interest Period**” means, in relation to the Loan or any part of the Loan, each period determined in accordance with Clause 9 (*Interest Periods*) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 8.3 (*Default interest*).

“**Interpolated Screen Rate**” means, in relation to the Loan or any part of the Loan, the rate which results from interpolating on a linear basis between:

- (a) the applicable Screen Rate for the longest period (for which that Screen Rate is available) which is less than the Interest Period of the Loan or that part of the Loan; and
- (b) the applicable Screen Rate for the shortest period (for which that Screen Rate is available) which exceeds the Interest Period of the Loan or that part of the Loan,

each as of the Specified Time for dollars.

**"ISM Code"** means the International Safety Management Code for the Safe Operation of Ships and for Pollution Prevention (including the guidelines on its implementation), adopted by the International Maritime Organisation, as the same may be amended or supplemented from time to time.

**"ISPS Code"** means the International Ship and Port Facility Security (ISPS) Code as adopted by the International Maritime Organization's (IMO) Diplomatic Conference of December 2002, as the same may be amended or supplemented from time to time.

**"ISSC"** means an International Ship Security Certificate issued under the ISPS Code.

**"Lender"** means:

- (a) the Original Lender; and
- (b) any bank, financial institution, trust, fund or other entity which has become the Lender in accordance with Clause 28 (*Changes to the Lender*),

which in each case has not ceased to be a Party in accordance with this Agreement.

**"LIBOR"** means, in relation to the Loan or any part of the Loan:

- (a) the applicable Screen Rate as of the Specified Time for dollars and for a period equal in length to the Interest Period of the Loan or that part of the Loan; or
- (b) as otherwise determined pursuant to Clause 10.1 (*Unavailability of Screen Rate*),

and if, in either case, that rate is less than zero, LIBOR shall be deemed to be zero.

**"LLC Interests Security"** means, in relation to a Borrower, a document creating Security over the limited liability company interests in that Borrower in agreed form.

**"LMA"** means the Loan Market Association or any successor organisation.

**"Loan"** means the loan to be made available under the Facility or the aggregate principal amount outstanding at any relevant time of the borrowings under the Facility, subject to Clause 21.4 (*Minimum Liquidity Amount in the case of insolvency of the Lender*), and a **"part of the Loan"** means an Advance or any part of the Loan as the context may require.

**"Major Casualty"** means, in relation to a Ship, any casualty to that Ship in relation to which the claim or the aggregate of the claims against all insurers, before adjustment for any relevant franchise or deductible, exceeds \$600,000 or the equivalent in any other currency.

**“Management Agreement”** means the Technical Management Agreement or the Commercial Management Agreement.

**“Manager’s Undertaking”** means, in relation to a Ship, the letter of undertaking from each Approved Manager of that Ship subordinating the rights of that Approved Manager against that Ship and the Borrower which is the owner of that Ship to the rights of the Lender in agreed form.

**“Margin”** means 4.2 per cent. per annum.

**“Market Value”** means, in relation to a Ship or any other vessel, at any date and as determined by Lender as being, an amount equal to the market value of that Ship or vessel shown by taking the arithmetic mean of two valuations, each prepared:

- (a) as at a date not more than 30 days previously;
- (b) by an Approved Valuer (one selected by the Lender and one by the Borrower);
- (c) with or without physical inspection of that Ship or vessel (as the Lender may require); and
- (d) on the basis of a sale for prompt delivery for cash on normal arm’s length commercial terms as between a willing seller and a willing buyer, free of any Charter.

**“Material Adverse Effect”** means in the reasonable opinion of the Lender a material adverse effect on:

- (a) the business, operations, property, condition (financial or otherwise) or prospects of any Obligor;
- (b) the ability of any Transaction Obligor to perform its obligations under any Finance Document;
- (c) the ability of any Approved Manager its ability to perform, its obligations under the any Manager’s Undertaking to which it is a party; or
- (d) the validity or enforceability of, or the effectiveness or ranking of any Security granted or intended to be granted pursuant to any of, the Finance Documents or the rights or remedies of the Lender under any of the Finance Documents.

**“Member”** means Poseidon Containers Holdings LLC, a limited liability company formed in the Marshall Islands whose registered address is at Trust Company Complex, Ajeltake Road, Ajeltake Islands, Majuro, MH96960, the Marshall Islands.

**“Minimum Liquidity Account”** means an account in the name of the Lender with the Minimum Liquidity Account Bank account no.: 069007069551 and with swift code: BKTWTWTP238.

**“Minimum Liquidity Account Bank”** means Bank of Taiwan, Taipei Branch.

**“Minimum Liquidity Amount”** means, at the date of this Agreement, \$500,000 or such lesser amount standing to the credit of the Minimum Liquidity Account at any relevant time in accordance with Clause 21.2 (*Reduction of Minimum Liquidity Amount in the case of Mandatory Prepayment on sale or Total Loss*).

“**Month**” means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:

- (a) (subject to paragraph (c) below) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day;
- (b) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month; and
- (c) if an Interest Period begins on the last Business Day of a calendar month, that Interest Period shall end on the last Business Day in the calendar month in which that Interest Period is to end.

The above rules will only apply to the last Month of any period.

“**Mortgage**” means, in relation to a Ship, the first preferred or priority ship mortgage (as applicable for the Approved Flag) on that Ship in agreed form.

“**Negotiation Period**” has the meaning given to it in Clause 10.3(B) (*Cost of Funds*).

“**Obligor**” means a Borrower or the Parent Guarantor.

“**Original Financial Statements**” means the audited financial statements of the Parent Guarantor for its financial year ended 31 December 2018.

“**Original Jurisdiction**” means, in relation to an Obligor, the jurisdiction under whose laws that Obligor is incorporated or formed as at the date of this Agreement.

“**Overseas Regulations**” means the Overseas Companies Regulations 2009 (SI 2009/1801).

“**Participating Member State**” means any member state of the European Union that has the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

“**Party**” means a party to this Agreement.

“**Permitted Charter**” means, in relation to a Ship,

- (a) a Charter (including, for the avoidance of doubt, any Assignable Charter or any Charter existing on the date of this Agreement):
  - (i) which is a time, voyage or consecutive voyage charter;
  - (ii) which is entered into on *bona fide* arm's length terms at the time at which that Ship is fixed; and
  - (iii) in relation to which not more than two months' hire is payable in advance;
- (b) any other Charter which is approved in writing by the Lender.

**“Permitted Financial Indebtedness”** means:

- (a) any Financial Indebtedness incurred under the Finance Documents; and
- (b) any Permitted Inter-company Loan.

**“Permitted Inter-company Loan”** means a loan made or to be made to a Borrower by a member of the Group:

- (a) which is unsecured;
- (b) in relation to which no interest, fees, costs or expenses are payable during the Security Period (except, for the avoidance of doubt, from cash which a Borrower would otherwise be permitted to distribute to the Parent Guarantor under Clause 22.19 (*Dividends*));
- (c) in relation to which no repayment or prepayment of principal is capable of being made to the relevant lender in accordance with its terms and conditions during the Security Period (except, for the avoidance of doubt, from cash which a Borrower would otherwise be permitted to distribute to the Parent Guarantor under Clause 22.19 (*Dividends*));
- (d) which is fully subordinated in all respects to the Secured Liabilities in accordance with a subordination agreement;
- (e) in respect of which the Lender has granted its prior written consent; and
- (f) which is the subject of Subordinated Debt Security.

**“Permitted Security”** means:

- (a) Security created by the Finance Documents;
- (b) liens for unpaid master’s and crew’s wages in accordance with first class ship ownership and management practice and not being enforced through arrest;
- (c) liens for salvage;
- (d) liens for master’s disbursements incurred in the ordinary course of trading in accordance with first class ship ownership and management practise and not being enforced through arrest; and
- (e) any other lien arising by operation of law or otherwise in the ordinary course of the operation, repair or maintenance of any Ship:
  - (i) not as a result of any default or omission by any Borrower;
  - (ii) not being enforced through arrest; and
  - (iii) subject, in the case of liens for repair or maintenance, to Clause 24.16 (*Restrictions on chartering, appointment of managers etc.*),

provided such lien does not secure amounts more than 30 days overdue (unless the overdue amount is being contested in good faith by appropriate steps).

**“Potential Event of Default”** means any event or circumstance specified in Clause 27 (*Events of Default*) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

**“Prohibited Person”** means any person (whether designated by name or by reason of being included in a class of persons) against whom Sanctions are directed.

**“Prohibited User”** means any person (whether designated by name or by reason of being included in a class of persons) against whom Sanctions are directed.

**“Quotation Day”** means, in relation to any period for which an interest rate is to be determined, two Business Days before the first day of that period unless market practice differs in the Relevant Interbank Market in which case the Quotation Day will be determined by the Lender in accordance with market practice in the Relevant Interbank Market (and if quotations would normally be given by leading banks in the Relevant Interbank Market on more than one day, the Quotation Day will be the last of those days).

**“Receiver”** means a receiver or receiver and manager or administrative receiver of the whole or any part of the Security Assets.

**“Related Fund”** in relation to a fund (the “first fund”), means a fund which is managed or advised by the same investment manager or investment adviser as the first fund or, if it is managed by a different investment manager or investment adviser, a fund whose investment manager or investment adviser is an Affiliate of the investment manager or investment adviser of the first fund.

**“Relevant Amount”** has the meaning given to it in Clause 7.5 (*Mandatory prepayment on sale or Total Loss*).

**“Relevant Interbank Market”** means the London interbank market.

**“Relevant Jurisdiction”** means, in relation to a Transaction Obligor or an Approved Manager:

- (a) its Original Jurisdiction;
- (b) any jurisdiction where any asset subject to, or intended to be subject to, any of the Transaction Security created, or intended to be created, by it is situated;
- (c) any jurisdiction where it conducts its business; and
- (d) the jurisdiction whose laws govern the perfection of any of the Security Documents entered into by it.

**“Repayment Date”** means each date on which a Repayment Instalment is required to be paid under Clause 6.1 (*Repayment of Loan*).

**“Repayment Instalment”** has the meaning given to it in Clause 6.1 (*Repayment of Loan*).

**"Repeating Representation"** means each of the representations set out in Clause 19 (*Representations*) except paragraph (b) of Clause 19.3 (*Share capital, membership interests and ownership*), Clause 19.10 (*Insolvency*), Clause 19.11 (*No filing or stamp taxes*) and Clause 19.12 (*Deduction of Tax*) and any representation of any Transaction Obligor made in any other Finance Document that is expressed to be a "Repeating Representation" or is otherwise expressed to be repeated.

**"Representative"** means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian.

**"Required Security Cover Ratio"** means a Security Cover Ratio of not less than 120 per cent.

**"Requisition"** means in relation to a Ship:

- (a) any expropriation, confiscation, requisition (excluding a requisition for hire or use which does not involve a requisition for title) or acquisition of that Ship, whether for full consideration, a consideration less than its proper value, a nominal consideration or without any consideration, which is effected (whether *de jure* or *de facto*) by any government or official authority or by any person or persons claiming to be or to represent a government or official authority; and
- (b) any capture or seizure of that Ship (including any hijacking or theft) by any person whatsoever.

**"Requisition Compensation"** includes all compensation or other moneys payable to a Borrower by reason of any Requisition or any arrest or detention of the Ship owned by that Borrower in the exercise or purported exercise of any lien or claim.

**"Safety Management Certificate"** has the meaning given to it in the ISM Code.

**"Safety Management System"** has the meaning given to it in the ISM Code.

**"Sanctions"** means any sanctions, embargoes, freezing provisions, prohibitions or other restrictions relating to trading, doing business, investment, exporting, financing or making assets available (or other activities similar to or connected with any of the foregoing):

- (a) imposed by law or regulation of the United Kingdom, the Council of the European Union, the United Nations or its Security Council or the United States of America regardless of whether the same is or is not binding on any Transaction Obligor or any Approved Manager; or
- (b) otherwise imposed by any law or regulation binding on a Transaction Obligor or an Approved Manager or to which a Transaction Obligor or an Approved Manager is subject (which shall include without limitation, any extra-territorial sanctions imposed by law or regulation of the United States of America).

**"Screen Rate"** means the London interbank offered rate administered by ICE Benchmark Administration Limited (or any other person which takes over the administration of that rate) for dollars for the relevant period displayed on page LIBOR01 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters. If such page or service ceases to be available, the Lender may specify another page or service displaying the relevant rate after consultation with the Borrowers.

**“Secured Liabilities”** means all present and future obligations and liabilities, (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of each Transaction Obligor and each Approved Manager to the Lender under or in connection with each Finance Document.

**“Security”** means a mortgage, pledge, lien, charge, assignment, hypothecation or security interest or any other agreement or arrangement having the effect of conferring security.

**“Security Assets”** means all of the assets of the Transaction Obligors or any Approved Manager (as applicable) which from time to time are, or are expressed to be, the subject of the Transaction Security.

**“Security Cover Ratio”** means, at any relevant time, the aggregate of:

- (a) the Market Value of the Ships; plus
- (b) the aggregate Minimum Liquidity Amounts standing to the credit of the Minimum Liquidity Account; plus
- (c) the net realisable value of additional Security previously provided under Clause 25 (*Security Cover*),

expressed as a percentage of the Loan, as at that time.

**“Security Document”** means:

- (a) any LLC Interests Security;
- (b) any Mortgage;
- (c) any Deed of Covenant (if applicable);
- (d) any General Assignment;
- (e) any Account Security;
- (f) any Charterparty Assignment;
- (g) any Manager’s Undertaking;
- (h) any Subordinated Debt Security;
- (i) any other document (whether or not it creates Security) which is executed as security for the Secured Liabilities; or
- (j) any other document designated as such by the Lender and the Borrowers.

**“Security Period”** means the period starting on the date of this Agreement and ending on the date on which the Lender is satisfied that there is no outstanding Commitment in force and that the Secured Liabilities have been irrevocably and unconditionally paid and discharged in full.



**“Security Property”** means:

- (a) the Transaction Security expressed to be granted in favour of the Lender and all proceeds of that Transaction Security;
- (b) all obligations expressed to be undertaken by a Transaction Obligor to pay amounts in relation to the Secured Liabilities to the Lender and secured by the Transaction Security together with all representations and warranties expressed to be given by a Transaction Obligor or any other person in favour of the Lender;
- (c) the Lender’s interest in any turnover trust created under the Finance Documents;

**“Selection Notice”** means a notice substantially in the form set out in Part D of Schedule 2 (*Requests*) given in accordance with Clause 9 (*Interest Periods*).

**“Ship”** means Ship A, Ship B or Ship C.

**“Ship A”** means m.v. “NEWYORKER”, registered in the ownership of Borrower A with IMO number 9209104, under an Approved Flag, further details of which are set out opposite its name in Schedule 3 (*Details of the Ships*), and everything now or in the future belonging to her on board or ashore.

**“Ship B”** means m.v. “NIKOLAS”, registered in the ownership of Borrower B with IMO number 9203526, under an Approved Flag, further details of which are set out opposite its name in Schedule 3 (*Details of the Ships*), and everything now or in the future belonging to her on board or ashore.

**“Ship C”** means m.v. “MAIRA”, registered in the ownership of Borrower C with IMO number 9203502, under an Approved Flag, further details of which are set out opposite its name in Schedule 3 (*Details of the Ships*), and everything now or in the future belonging to her on board or ashore.

**“Specified Time”** means a day or time determined in accordance with Schedule 4 (*Timetables*).

**“Subordinated Creditor”** means:

- (a) a Transaction Obligor; or
- (a) any other person who becomes a Subordinated Creditor in accordance with this Agreement.

**“Subordinated Debt Security”** means a Security over Subordinated Liabilities entered into or to be entered into by a Subordinated Creditor or any member of the Group who becomes a creditor of any Permitted Inter-Company Loan in favour of the Lender in an agreed form.

**“Subordinated Finance Document”** means:

- (a) a Subordinated Loan Agreement; or
- (b) any other document relating to or evidencing Subordinated Liabilities.

**“Subordinated Liabilities”** means all indebtedness owed or expressed to be owed by a Borrower to the Subordinated Creditors whether under the Subordinated Finance Documents or otherwise.

**“Subordinated Loan Agreement”** means any loan agreement made or to be made between the Borrowers or either of them and a Subordinated Creditor.

**“Subordination Agreement”** means a subordination agreement entered into or to be entered into by each Subordinated Creditor and the Lender in agreed form.

**“Subsidiary”** means a subsidiary within the meaning of section 1159 of the Companies Act 2006.

**“Tax”** means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

**“Tax Credit”** has the meaning given to it in Clause 12.1 (*Definitions*).

**“Tax Deduction”** has the meaning given to it in Clause 12.1 (*Definitions*).

**“Tax Payment”** has the meaning given to it in Clause 12.1 (*Definitions*).

**“Technical Management Agreement”** means, in relation to a Ship, the agreement entered into between the Borrower owning that Ship and the Approved Technical Manager of that Ship regarding the technical management of that Ship.

**“Termination Date”** means the date falling on the fifth anniversary of the Utilisation Date.

**“Third Parties Act”** has the meaning given to it in Clause 1.5 (*Third party rights*).

**“Total Loss”** means, in relation to a Ship:

- (a) actual, constructive, compromised, agreed or arranged total loss of that Ship; or
- (b) any Requisition of that Ship unless that Ship is returned to the full control of the relevant Borrower within 30 days of such Requisition (or such longer period as may be requested by the Borrowers and accepted by the Lender).

**“Total Loss Date”** means, in relation to the Total Loss of a Ship:

- (a) in the case of an actual loss of that Ship, the date on which it occurred or, if that is unknown, the date when that Ship was last heard of;
- (b) in the case of a constructive, compromised, agreed or arranged total loss of that Ship, the earlier of:
  - (i) the date on which a notice of abandonment is given (or deemed or agreed to be given) to the insurers; and
  - (ii) the date of any compromise, arrangement or agreement made by or on behalf of the relevant Borrower with that Ship's insurers in which the insurers agree to treat that Ship as a total loss; and

- (c) in the case of any other type of Total Loss, the date (or the most likely date) on which it appears to the Lender that the event constituting the total loss occurred.

**“Transaction Document”** means:

- (a) a Finance Document;
- (b) any document relating to or evidencing the subordination of a Permitted Inter-Company Loan;
- (c) a Subordinated Finance Documents;
- (d) any Assignable Charter;
- (e) any other document designated as such by (i) the Lender and (ii) a Transaction Obligor or an Approved Manager.

**“Transaction Obligor”** means an Obligor, the Member or any other member of the Group who executes a Finance Document.

**“Transaction Security”** means the Security created or evidenced or expressed to be created or evidenced under the Security Documents.

**“UK Establishment”** means a UK establishment as defined in the Overseas Regulations.

**“Unpaid Sum”** means any sum due and payable but unpaid by a Transaction Obligor under the Finance Documents.

**“US”** means the United States of America.

**“US Tax Obligor”** means:

- (a) a person which is resident for tax purposes in the US; or
- (b) a person some or all of whose payments under the Finance Documents are from sources within the US for US federal income tax purposes.

**“Utilisation”** means the utilisation of the Facility.

**“Utilisation Date”** means the date of the Utilisation, being the date on which Loan is to be made.

**“Utilisation Request”** means a notice substantially in the form set out in Part A of Schedule 3 (*Requests*).

**“VAT”** means:

- (a) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and
- (b) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) above, or imposed elsewhere.

## 1.2 Construction

(a) Unless a contrary indication appears, a reference in this Agreement to:

- (i) the “**Account Bank**”, the “**Lender**”, any “**Obligor**”, any “**Party**”, any “**Transaction Obligor**” or any other person shall be construed so as to include its successors in title and permitted assigns;
- (ii) “**assets**” includes present and future properties, revenues and rights of every description;
- (iii) a liability which is “**contingent**” means a liability which is not certain to arise and/or the amount of which remains unascertained;
- (iv) “**document**” includes a deed and also a letter, fax, email or telex;
- (v) “**expense**” means any kind of cost, charge or expense (including all legal costs, charges and expenses) and any applicable Tax including VAT;
- (vi) a “**Finance Document**”, a “**Security Document**” or “**Transaction Document**” or any other agreement or instrument is a reference to that Finance Document, Security Document or Transaction Document or other agreement or instrument as amended, novated, supplemented, extended or restated;
- (vii) “**indebtedness**” includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- (viii) “**law**” includes any order or decree, any form of delegated legislation, any treaty or international convention and any regulation or resolution of the Council of the European Union, the European Commission, the United Nations or its Security Council;
- (ix) “**proceedings**” means, in relation to any enforcement provision of a Finance Document, proceedings of any kind, including an application for a provisional or protective measure;
- (x) a “**person**” includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
- (xi) a “**regulation**” includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- (xii) a provision of law is a reference to that provision as amended or re-enacted;
- (xiii) a time of day is a reference to London time;
- (xiv) any English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall, in respect of a jurisdiction other than England, be deemed to include that which most nearly approximates in that jurisdiction to the English legal term;

- (xv) words denoting the singular number shall include the plural and vice versa; and
- (xvi) “**including**” and “**in particular**” (and other similar expressions) shall be construed as not limiting any general words or expressions in connection with which they are used.
- (b) The determination of the extent to which a rate is “**for a period equal in length**” to an Interest Period shall disregard any inconsistency arising from the last day of that Interest Period being determined pursuant to the terms of this Agreement.
- (c) Section, Clause and Schedule headings are for ease of reference only and are not to be used for the purposes of construction or interpretation of the Finance Documents.
- (d) Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under, or in connection with, any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.
- (e) A Potential Event of Default is “**continuing**” if it has not been remedied or waived and an Event of Default is “**continuing**” if it has not been waived.

### 1.3 Construction of insurance terms

In this Agreement:

“**approved**” means, for the purposes of Clause 23 (*Insurance Undertakings*), approved in writing by the Lender.

“**excess risks**” means, in respect of a Ship, the proportion of claims for general average, salvage and salvage charges not recoverable under the hull and machinery policies in respect of that Ship in consequence of its insured value being less than the value at which that Ship is assessed for the purpose of such claims.

“**obligatory insurances**” means all insurances effected, or which any Borrower is obliged to effect, under Clause 23 (*Insurance Undertakings*) or any other provision of this Agreement or of another Finance Document.

“**policy**” includes a slip, cover note, certificate of entry or other document evidencing the contract of insurance or its terms.

“**protection and indemnity risks**” means the usual risks covered by a protection and indemnity association managed in London, including pollution risks and the proportion (if any) of any sums payable to any other person or persons in case of collision which are not recoverable under the hull and machinery policies by reason of the incorporation in them of clause 6 of the International Hull Clauses (1/11/02) (1/11/03), clause 8 of the Institute Time Clauses (Hulls) (1/10/83) (1/11/95) or the Institute Amended Running Down Clause (1/10/71) or any equivalent provision.

“**war risks**” includes the risk of mines and all risks excluded by clause 29, 30, 31 of the International Hull Clauses (1/11/02 or 1/11/03), clauses 20 or 30 of the International Hull Clauses or clauses 24, 25 or 26 of the Institute Time Clauses (Hulls) (1/11/95) or clause 23, 24 or 25 of the Institute Time Clauses (Hulls) (1/10/83) or any equivalent provision.

#### **1.4 Agreed forms of Finance Documents**

References in Clause 1.1 (*Definitions*) to any Finance Document being in “agreed form” are to that Finance Document:

- (a) in a form attached to a certificate dated the same date as this Agreement (and signed by each Borrower and the Lender); or
- (b) in any other form agreed in writing between each Borrower and the Lender.

#### **1.5 Third party rights**

- (a) Unless expressly provided to the contrary in a Finance Document, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the “**Third Parties Act**”) to enforce or to enjoy the benefit of any term of this Agreement.
- (b) Notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Agreement at any time.
- (c) Any Affiliate, Receiver, Delegate or any other person described in paragraph (c) of Clause 14.2 (Other indemnities) may, subject to this Clause 1.5 (Third party rights) and the Third Parties Act, rely on any Clause of this Agreement which expressly confers rights on it.

**SECTION 2**  
**THE FACILITY**

**2 THE FACILITY**

**2.1 The Facility**

Subject to the terms of this Agreement, the Lender makes available to the Borrowers a dollar term loan facility in a single Advance in an aggregate amount not exceeding the Commitment.

**3 PURPOSE**

**3.1 Purpose**

The Borrowers shall apply all amounts borrowed by them under the Facility only for general corporate purposes and for the purpose of re-financing equity used for repayment of certain indebtedness secured on the Ships as stated in the preamble (Background) to this Agreement.

**3.2 Monitoring**

The Lender is not bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

**4 CONDITIONS OF UTILISATION**

**4.1 Initial conditions precedent**

The Borrowers may not deliver the Utilisation Request unless the Lender has received all of the documents and other evidence listed in Part A of Schedule 2 (*Conditions Precedent*) or is satisfied that it will receive them when the Advance is made available, in form and substance satisfactory to the Lender.

**4.2 Further conditions precedent**

The Lender will only be obliged to comply with Clause 5.4 (*Loan*) if:

- (a) on the date of the Utilisation Request and on the proposed Utilisation Date and before the Advance is made available:
  - (i) no Default is continuing or would result from the proposed Advance;
  - (ii) the Repeating Representations to be made by each Transaction Obligor are true;
  - (iii) no event described in paragraph (a) of Clause 7.2 (*Change of control*) has occurred;
- (b) the Lender has received on or before the Utilisation Date, or is satisfied that it will receive when the Advance is made available, all of the documents and other evidence listed in Part B of Schedule 2 (*Conditions Precedent*) in form and substance satisfactory to the Lender;

#### **4.3 Notification of satisfaction of conditions precedent**

The Lender shall notify the Borrowers promptly upon being satisfied as to the satisfaction of the conditions precedent referred to in Clause 4.1 (*Initial conditions precedent*) and Clause 4.2 (*Further conditions precedent*).

#### **4.4 Waiver of conditions precedent**

If the Lender, at its discretion, permits the Loan to be borrowed before any of the conditions precedent referred to in Clause 4.1 (*Initial conditions precedent*) or Clause 4.2 (*Further conditions precedent*) has been satisfied, the Borrowers shall ensure that that condition is satisfied within five Business Days after the Utilisation Date or such later date as the Lender, may agree in writing with the Borrowers.



**SECTION 3**  
**UTILISATION**

**5 UTILISATION**

**5.1 Delivery of the Utilisation Request**

- (a) The Borrowers may utilise the Facility by delivery to the Lender of a duly completed Utilisation Request not later than the Specified Time.
- (b) The Borrowers may not deliver more than one Utilisation Request in relation to the Loan.

**5.2 Completion of the Utilisation Request**

- (a) The Utilisation Request is irrevocable and will not be regarded as having been duly completed unless:
  - (i) the proposed Utilisation Date is a Business Day within the Availability Period;
  - (ii) the currency and amount of the Utilisation comply with Clause 5.3 (*Currency and amount*);
  - (iii) all applicable deductible items have been completed; and
  - (iv) the proposed Interest Period complies with Clause 9 (*Interest Periods*).

**5.3 Currency and amount**

- (a) The currency specified in the Utilisation Request must be dollars.
- (b) The amount of the Loan must be an amount which is not more than \$9,000,000.

**5.4 Loan**

If the conditions set out in this Agreement have been met, the Lender shall make the Advance available by the Utilisation Date through its Facility Office.

**5.5 Cancellation of Commitment**

On the earlier of the date on which the Loan has been made and the end of the Availability Period any part of the Commitment which is then unutilised shall be cancelled.

## SECTION 4

### REPAYMENT, PREPAYMENT AND CANCELLATION

#### 6 REPAYMENT

##### 6.1 Repayment of Loan

The Borrowers shall repay the Loan by sixty (60) consecutive monthly repayment instalments as follows:

- (a) the first (1st) to the thirty sixth (36th) repayment instalment (inclusive), each in the amount of \$156,000;
- (b) the thirty seventh (37th) to the fifty eighth (58th) repayment instalment (inclusive), each in the amount of \$86,261;
- (c) the fifty ninth (59th) repayment instalment in the amount of \$86,258; and
- (d) the sixtieth (60th) repayment instalment in the amount of \$1,400,000,

and each such repayment instalment shall be a "**Repayment Instalment**" and, in the plural means all of them, the first of which shall be repaid on the date falling one month from the Utilisation Date, each subsequent Repayment Instalment in one month intervals thereafter and the last on the Termination Date.

##### 6.2 Effect of cancellation and prepayment on scheduled repayments

- (a) If the Borrowers cancel the whole or any part of the Loan in accordance with Clause 7.3 (Voluntary and automatic cancellation) or if the whole or any part of the Commitment is cancelled pursuant to Clause 5.5 (Cancellation of Commitment), the Repayment Instalments for each Repayment Date falling after that cancellation will be reduced by the amount of the Commitment so cancelled, in inverse order of maturity.
- (b) If any part of the Loan is prepaid in accordance with Clause 7.4 (*Voluntary prepayment of Loan*) or Clause 7.5 (*Mandatory prepayment on sale or Total Loss*) then the amount of the Repayment Instalments falling after that repayment or prepayment will be reduced by the amount of the Loan so repaid or prepaid, in inverse order of maturity.

##### 6.3 Termination Date

On the Termination Date, the Borrowers shall additionally pay to the Lender all other sums then accrued and owing under the Finance Documents.

##### 6.4 Reborrowing

No Borrower may reborrow any part of the Facility which is repaid.

## 7 PREPAYMENT AND CANCELLATION

### 7.1 Illegality

If it becomes unlawful in any applicable jurisdiction for the Lender to perform any of its obligations as contemplated by this Agreement or to fund or maintain the Loan or any part thereof or it becomes unlawful for any Affiliate of the Lender to do so:

- (a) the Lender shall promptly notify the Borrower upon becoming aware of that event and the Available Facility will be immediately cancelled; and
- (b) the Borrowers shall prepay the Loan on the last day of the Interest Period for the Loan occurring after the Lender has notified the Borrowers or, if earlier, the date specified by the Lender in the notice delivered to the Borrower (being no earlier than the last day of any applicable grace period permitted by law) and the Commitment shall be cancelled.

### 7.2 Change of control

- (a) If
  - (i) any person or group of persons acting in concert gains directly or indirectly control of the Parent Guarantor other than:
    - (A) Mr. Georgios Giouroukos; or
    - (B) Kelso & Company or its Related Funds; or
  - (ii) Mr. Georgios Giouroukos ceases during the Security Period to hold the position of executive chairman or equivalent executive officer position in the board of directors of the Parent Guarantor other than in case Mr. Georgios Giouroukos dies or becomes permanently incapable of managing his affairs:

then:

- (A) the Parent Guarantor shall promptly notify the Lender upon becoming aware of that event; and
  - (B) the Lender may, by not less than 10 days' notice to the Borrowers, cancel the Facility and declare the Loan, together with accrued interest, and all other amounts accrued under the Finance Documents immediately due and payable, whereupon the Facility will be cancelled and the Loan and all such outstanding interest and other amounts will become immediately due and payable.
- (b) For the purpose of paragraph (a) above "**control**" means:
    - (i) the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:
      - (A) cast, or control (through one or more Affiliates) the casting of, more than 35 per cent. of the maximum number of votes that might be cast at a general meeting of the Parent Guarantor; or

- (B) appoint or remove all, or the majority, of the directors or other equivalent officers of the Parent Guarantor; or
  - (C) give directions with respect to the operating and financial policies of the Parent Guarantor with which the directors or other equivalent officers of the Parent Guarantor are obliged to comply; and/or
- (ii) the holding beneficially (through one or more Affiliates) of more than 35 per cent. of the issued shares of the Parent Guarantor (excluding any part of that issued shares that carries no right to participate beyond a specified amount in a distribution of either profits or capital).

### **7.3 Voluntary and automatic cancellation**

- (a) The Borrowers may, if they give the Lender not less than 7 Business Days' (or such shorter period as the Lender may agree) prior notice, cancel the whole or any part being a minimum amount of \$1,000,000 (and thereafter in integral multiples of \$100,000) of the Available Facility.
- (b) Any part of the unutilised Commitment (if any) shall be automatically cancelled at close of business on the Utilisation Date.

### **7.4 Voluntary prepayment of Loan**

- (a) Subject to the provisions of paragraph (f) of Clause 7.6 (*Restrictions*), the Borrowers may, if they give the Lender not less than 10 Business Days' (or such shorter period as the Lender may agree) prior notice, prepay the whole or any part of the Loan (but, if in part, being an amount that reduces the amount of the Loan by a minimum amount of \$1,000,000 (and thereafter in integral multiples of \$100,000)) provided that such notice may not be served within six months from the Utilisation Date.
- (b) Any partial prepayment under this Clause 7.4 (Voluntary prepayment of Loan) shall reduce in inverse chronological order the amount of each Repayment Instalment falling after that prepayment by the amount prepaid.

### **7.5 Mandatory prepayment on sale or Total Loss**

- (a) If a Ship is sold (without prejudice to paragraph (a) of Clause 22.13 (*Disposal*)) or becomes a Total Loss, the Borrowers shall prepay on the Relevant Date the Relevant Amount.
- (b) In this Clause 7.5 (Mandatory prepayment on sale or Total Loss):

**"Relevant Date"** means:

- (i) in the case of a sale of a Ship, on the date on which the sale is completed by delivery of that Ship to the buyer of that Ship; and
- (ii) in the case of a Total Loss of a Ship, the date falling on the earlier of:
  - (A) the date falling 120 days after the Total Loss Date; and
  - (B) the date of receipt by the Lender of the proceeds of insurance relating to such Total Loss.

**"Relevant Amount"** means an amount (if any) which after the application of the prepayment to be made pursuant to this Clause 7.5 (*Mandatory prepayment on sale or Total Loss*) results in the Security Cover Ratio being at least equal to the Required Security Cover Ratio.

## **7.6 Restrictions**

- (a) Any notice of cancellation or prepayment given by any Party under this Clause 7 (Prepayment and Cancellation) shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made, the amount of that cancellation or prepayment and, if relevant, the part of the Loan to be prepaid or cancelled.
- (b) Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid and, subject to any Break Costs, without premium or penalty.
- (c) No Borrower may reborrow any part of the Facility which is prepaid.
- (d) No Borrower shall repay or prepay all or any part of the Loan or cancel all or any part of the Commitment except at the times and in the manner expressly provided for in this Agreement.
- (e) Subject to paragraph (c) of Clause 11.3 (Prepayment Fee), any prepayment under this Clause 7 (Prepayment and Cancellation) shall be subject to a prepayment fee as set out in Clause 11.3 (Prepayment Fee).
- (f) No notice of prepayment or cancellation given by or to any Party under this Clause 7 (Prepayment and Cancellation) may be served within 6 months of the Utilisation Date save for any prepayment made pursuant to Clauses 7.1 (*Illegality*), 7.2 (*Change of control*) and 7.5 (*Mandatory Prepayment on sale or Total Loss*).

**SECTION 5**  
**COSTS OF UTILISATION**

**8 INTEREST**

**8.1 Calculation of interest**

The rate of interest on the Loan or any part of the Loan for each Interest Period is the percentage rate per annum which is the aggregate of:

- (a) the Margin; and
- (b) LIBOR.

**8.2 Payment of interest**

- (a) The Borrowers shall pay accrued interest on any part of the Loan on the last day of each Interest Period in relation to that part of the Loan.
- (b) If an Interest Period is longer than one Month, the Borrowers shall also pay interest then accrued on any part of the Loan on the dates falling at Monthly intervals after the first day of the Interest Period in relation to that part of the Loan.

**8.3 Default interest**

- (a) If a Transaction Obligor fails to pay any amount payable by it under a Finance Document on its due date, interest shall accrue on the Unpaid Sum from the due date up to the date of actual payment (both before and after judgment) at a rate which, subject to paragraph (b) below, is 2.00 per cent. per annum higher than the rate which would have been payable if the Unpaid Sum had, during the period of non-payment, constituted part of the Loan in the currency of the Unpaid Sum for successive Interest Periods, each of a duration selected by the Lender. Any interest accruing under this Clause 8.3 (Default interest) shall be immediately payable by the Obligor on demand by the Lender.
- (b) If an Unpaid Sum consists of all or part of the Loan which became due on a day which was not the last day of an Interest Period relating to the Loan or that part of the Loan:
  - (i) the first Interest Period for that Unpaid Sum shall have a duration equal to the unexpired portion of the current Interest Period relating to the Loan or that part of the Loan; and
  - (ii) the rate of interest applying to that Unpaid Sum during that first Interest Period shall be 2.00 per cent. per annum higher than the rate which would have applied if that Unpaid Sum had not become due.
- (c) Default interest (if unpaid) arising on an Unpaid Sum will be compounded with the Unpaid Sum at the end of each Interest Period applicable to that Unpaid Sum but will remain immediately due and payable.

#### **8.4 Notification of rates of interest**

- (a) The Lender shall promptly notify the Borrowers of the determination of a rate of interest under this Agreement.
- (b) The Lender shall promptly notify the Borrowers of each Funding Rate relating to the Loan, any part of the Loan or any Unpaid Sum.

### **9 INTEREST PERIODS**

#### **9.1 Selection of Interest Periods**

- (a) The relevant Interest Period will be one Month.
- (b) An Interest Period in respect of the Loan shall not extend beyond the Termination Date.
- (c) The first Interest Period for the Lender shall start on the Utilisation Date and each subsequent Interest Period shall start on the last day of the preceding Interest Period.

#### **9.2 Non-Business Days**

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

### **10 CHANGES TO THE CALCULATION OF INTEREST**

#### **10.1 Unavailability of Screen Rate**

If no Screen Rate is available for LIBOR for:

- (a) dollars; or
- (b) the Interest Period of the Loan and it is not possible to calculate the Interpolated Screen Rate,

there shall be no LIBOR for the Loan and Clause 10.3 (*Cost of funds*) shall apply to the Loan or that part of the Loan for that Interest Period.

#### **10.2 Market disruption**

If before close of business in London on the Quotation Day for the relevant Interest Period the Lender notifies the Borrowers that the cost to it of funding its participation in the Loan from whatever source it may reasonably select would be in excess of LIBOR then Clause 10.3 (*Cost of funds*) shall apply to the Loan for the relevant Interest Period.

#### **10.3 Cost of funds**

- (a) If this Clause 10.3 (*Cost of funds*) applies, the rate of interest of the Loan for the relevant Interest Period shall be the percentage rate per annum which is the sum of:
  - (i) the Margin; and
  - (ii) the rate notified to Borrowers by the Lender as soon as practicable and in any event before interest is due to be paid in respect of that Interest Period to be that which

expresses as a percentage rate per annum the cost to the Lender of funding the Loan from whatever source it may reasonably select or, if such rate is less than zero, such rate shall be deemed to be zero.

- (b) If this Clause 10.3 (Cost of funds) applies and the Lender or the Borrowers so require, the Lender and the Borrowers shall enter into negotiations, for a period of not more than 30 days (the "Negotiation Period") with a view to agreeing a substitute basis for determining the rate of interest or (as the case may be) an alternative basis for funding.
- (c) Any substitute or alternative basis agreed pursuant to paragraph (b) above shall be binding on all Parties.
- (d) If a substitute or alternative basis is not agreed within the Negotiation Period and the relevant circumstances are continuing at the end of the Negotiation Period, the Borrowers shall give the Lender not less than 10 Business Days' notice of their intention to prepay the Loan at the end of the interest period set by the Lender.
- (e) The provisions of Clause 7.6 (Restrictions) shall apply to any prepayment made pursuant to this 10.3 (Cost of Funds).

#### **10.4 Break Costs**

The Borrowers shall, within three Business Days of demand by the Lender, pay to the Lender its Break Costs attributable to all or any part of the Loan or Unpaid Sum being paid by a Borrower on a day other than the last day of an Interest Period for the Loan, the relevant part of the Loan or that Unpaid Sum.

### **11 FEES**

#### **11.1 Facility fee**

The Borrowers shall pay to the Lender a non-refundable facility fee of \$126,000 (representing 1.40 per cent. of the Loan) on the date falling 5 Business Days after the Borrowers accepting the Lender's firm offer letter (the "**Firm Offer Date**"). For the avoidance of doubt, the Lender confirms that such facility fee was paid on 9 January 2020.

#### **11.2 Upfront fee**

The Borrowers shall pay to the Lender a non-refundable upfront fee in the amount of \$40,000 on the day of execution of this Agreement.

#### **11.3 Prepayment Fee**

- (a) If the Borrowers request to prepay the whole or any part of Loan at any time prior to, and inclusive of, the second anniversary of the Utilisation Date, they must pay to the Lender a prepayment fee on the date of prepayment of all or part of the Loan.
- (b) The amount of the prepayment fee shall be 1 per cent of the amount prepaid.
- (c) This Clause 11.3 (*Prepayment Fee*) shall not apply in the case of a prepayment resulting from a sale or a total loss of a Vessel in accordance with, and pursuant to Clause 7.5 (Mandatory prepayment on sale or Total Loss) or in the case of a prepayment made pursuant to Clause 7.1 (*Illegality*) or pursuant to Clause 7.2 (*Change of Control*).



## SECTION 6

### ADDITIONAL PAYMENT OBLIGATIONS

#### 12 TAX GROSS UP AND INDEMNITIES

##### 12.1 Definitions

(a) In this Agreement:

“**Tax Credit**” means a credit against, relief or remission for, or repayment of any Tax.

“**Tax Deduction**” means a deduction or withholding for or on account of Tax from a payment under a Finance Document, other than a FATCA Deduction.

“**Tax Payment**” means either the increase in a payment made by an Obligor to the Lender under Clause 12.2 (*Tax gross-up*) or a payment under Clause 12.3 (*Tax indemnity*).

(b) Unless a contrary indication appears, in this Clause 12 (*Tax Gross Up and Indemnities*) reference to “determines” or “determined” means a determination made in the absolute discretion of the person making the determination.

##### 12.2 Tax gross-up

(a) Each Obligor shall make all payments to be made by it without any Tax Deduction, unless a Tax Deduction is required by law.

(b) The Borrowers shall promptly upon becoming aware that an Obligor must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Lender accordingly. Similarly, the Lender shall notify an Obligor on becoming so aware in respect of a payment payable to the Lender.

(c) If a Tax Deduction is required by law to be made by an Obligor, the amount of the payment due from that Obligor shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.

(d) If an Obligor is required to make a Tax Deduction, that Obligor shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.

(e) Within 30 days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Obligor making that Tax Deduction shall deliver to the Lender entitled to the payment evidence reasonably satisfactory to the Lender that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

##### 12.3 Tax indemnity

(a) The Obligors shall (within three Business Days of demand by the Lender) pay to the Lender an amount equal to the loss, liability or cost which the Lender determines will be or has been (directly or indirectly) suffered for or on account of Tax by the Lender in respect of a Finance Document.

- (b) Paragraph (a) above shall not apply:
- (i) with respect to any Tax assessed on the Lender:
    - (A) under the law of the jurisdiction in which the Lender is incorporated or, if different, the jurisdiction (or jurisdictions) in which the Lender is treated as resident for tax purposes; or
    - (B) under the law of the jurisdiction in which the Lender's Facility Office is located in respect of amounts received or receivable in that jurisdiction,if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by the Lender; or
  - (ii) to the extent a loss, liability or cost:
    - (A) is compensated for by an increased payment under Clause 12.2 (*Tax gross-up*); or
    - (B) relates to a FATCA Deduction required to be made by a Party.
- (c) The Lender shall, if making, or intending to make, a claim under paragraph (a) above promptly notify the Obligors of the event which will give, or has given, rise to the claim.

#### **12.4 Tax Credit**

If an Obligor makes a Tax Payment and the Lender determines that:

- (a) a Tax Credit is attributable to an increased payment of which that Tax Payment forms part, to that Tax Payment or to a Tax Deduction in consequence of which that Tax Payment was received; and
- (b) the Lender has obtained and utilised that Tax Credit,

the Lender shall pay an amount to the Obligor which the Lender determines will leave it (after that payment) in the same after-Tax position as it would have been in had the Tax Payment not been required to be made by the Obligor.

#### **12.5 Stamp taxes**

The Obligors shall pay and, within three Business Days of demand, indemnify the Lender against any cost, loss or liability which the Lender incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document.

#### **12.6 VAT**

- (a) All amounts expressed to be payable under a Finance Document by any Party to the Lender which (in whole or in part) constitute the consideration for any supply for VAT purposes are deemed to be exclusive of any VAT which is chargeable on that supply, and accordingly, if VAT is or becomes chargeable on any supply made by the Lender to any Party under a Finance Document and the Lender is required to account to the relevant tax authority for the VAT, that Party must pay to the Lender (in addition to and at the same time as paying any other

consideration for such supply) an amount equal to the amount of the VAT (and the Lender must promptly provide an appropriate VAT invoice to that Party).

- (b) Where a Finance Document requires any Party to reimburse or indemnify the Lender for any cost or expense, that Party shall reimburse or indemnify (as the case may be) the Lender for the full amount of such cost or expense, including such part of it as represents VAT, save to the extent that the Lender reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority.
- (c) Any reference in this Clause 12.6 (VAT) to any Party shall, at any time when that Party is treated as a member of a group or unity (or fiscal unity) for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the person who is treated at that time as making the supply, or (as appropriate) receiving the supply, under the grouping rules provided for in Article 11 of Council Directive 2006/112/EC (or as implemented by the relevant member state of the European Union) so that a reference to a Party shall be construed as a reference to that Party or the relevant group or unity (or fiscal unity) of which that Party is a member for VAT purposes at the relevant time or the relevant representative member (or representative or head) of that group or unity at the relevant time (as the case may be).
- (d) In relation to any supply made by the Lender to any Party under a Finance Document, if reasonably requested by the Lender, that Party must promptly provide the Lender with details of that Party's VAT registration and such other information as is reasonably requested in connection with the Lender's VAT reporting requirements in relation to such supply.

## **12.7 FATCA Information**

- (a) Subject to paragraph (c) below, each Party shall, within ten Business Days of a reasonable request by another Party:
  - (i) confirm to that other Party whether it is:
    - (A) a FATCA Exempt Party; or
    - (B) not a FATCA Exempt Party; and
  - (ii) supply to that other Party such forms, documentation and other information relating to its status under FATCA as that other Party reasonably requests for the purposes of that other Party's compliance with FATCA; and
  - (iii) supply to that other Party such forms, documentation and other information relating to its status as that other Party reasonably requests for the purposes of that other Party's compliance with any other law, regulation or exchange of information regime.
- (b) If a Party confirms to another Party pursuant to sub-paragraph (i) of paragraph (a) above that it is a FATCA Exempt Party and it subsequently becomes aware that it is not, or has ceased to be a FATCA Exempt Party, that Party shall notify that other Party reasonably promptly.
- (c) Paragraph (a) above shall not oblige the Lender to do anything and sub-paragraph (iii) of paragraph (a) above shall not oblige any other Party to do anything which would or might in its reasonable opinion constitute a breach of:
  - (i) any law or regulation;

- (ii) any fiduciary duty; or
  - (iii) any duty of confidentiality.
- (d) If a Party fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with sub-paragraphs (i) or (ii) of paragraph (a) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.

## 12.8 FATCA Deduction

- (a) Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.
- (b) Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction), notify the Party to whom it is making the payment.

## 13 INCREASED COSTS

### 13.1 Increased costs

- (a) Subject to 13.4 (*Exceptions*), the Borrowers shall, within 10 Business Days of the Lender's notification made pursuant to and in accordance with Clauses 13.2 (*Notification to the Borrowers of Increased Cost claims*) and 13.3 (*Payment of Increased Costs*) or, at the lapse of the Increased Costs Negotiation Period, as the case may be, pay for the account of the Lender the amount of any Increased Costs incurred by the Lender or any of its Affiliates as a result of:
  - (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation; or
  - (ii) compliance with any law or regulation made,in each case after the date of this Agreement; or
  - (iii) the implementation, application of or compliance with Basel III or CRD IV or any law or regulation that implements or applies Basel III or CRD IV.
- (b) In this Agreement:
  - (i) "**Basel III**" means:
    - (A) the agreements on capital requirements, a leverage ratio and liquidity standards contained in "Basel III: A global regulatory framework for more resilient banks and banking systems", "Basel III: International framework for liquidity risk measurement, standards and monitoring" and "Guidance for national authorities operating the countercyclical capital buffer" published by the Basel Committee on Banking Supervision in December 2010, each as amended, supplemented or restated;

- (B) the rules for global systemically important banks contained in “Global systemically important banks: assessment methodology and the additional loss absorbency requirement - Rules text” published by the Basel Committee on Banking Supervision in November 2011, as amended, supplemented or restated; and
  - (C) any further guidance or standards published by the Basel Committee on Banking Supervision relating to “Basel III”.
- (ii) “**CRD IV**” means:
- (A) Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending regulation (EU) No. 648/2012, as amended by Regulation (EU) 2019/876;
  - (B) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC, as amended by Directive (EU) 2019/878; and
  - (C) any other law or regulation which implements Basel III.
- (iii) “**Increased Costs**” means:
- (A) a reduction in the rate of return from the Facility or on the Lender’s (or its Affiliate’s) overall capital;
  - (B) an additional or increased cost; or
  - (C) a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by the Lender or any of its Affiliates to the extent that it is attributable to the Lender having entered into the Commitment or funding or performing its obligations under any Finance Document.

### 13.2 Notification to the Borrowers of Increased Cost claims

If the Lender intends to make a claim pursuant to Clause 13.1 (*Increased costs*) it shall notify the Borrowers of the event giving rise to the claim.

### 13.3 Payment of Increased Costs

- (a) The Borrowers shall pay to the Lender, within ten (10) Business Days of the Lender’s notification as per Clause 13.2 (*Notification to the Borrowers of Increased Cost claims*) above, the amounts which the Lender from time to time specifies as necessary to compensate itself for the Increased Costs.
- (b) Notwithstanding paragraph (a) above, the Borrowers may, by serving a notice (“**Borrowers’ Relevant Notice**”) to the Lender within 3 Business Days of the Lender’s notification pursuant to paragraph (a) of this Clause 13.3 (*Payment of Increased Costs*) (“**Relevant Period**”), request they enter into negotiations with the Lender on the amount of Increased Costs, for a period

of not more than 30 days starting with the date of the Borrowers' Relevant Notice (the "**Increased Costs Negotiation Period**") with a view to mutually agreeing the final amount of the Increased Costs to be paid by the Borrowers **Provided that** such Borrowers' Relevant Notice may only be served within the Relevant Period;

- (c) If a final amount of the Increased Costs is not mutually agreed between the Lender and the Borrowers within the Increased Costs Negotiation Period, the Borrowers shall give the Lender not less than 10 Business Days' notice of their intention to prepay the Loan at the end of an Interest Period.
- (d) The provisions of Clause 7.6 (*Restrictions*) shall apply to any prepayment made pursuant to this Clause 13.3 (*Payment of Increased Costs*) and for the avoidance of doubt paragraph (b) of 7.6 (*Restrictions*) in particular shall apply.

#### **13.4 Exceptions**

Clause 13.1 (*Increased costs*) does not apply to the extent any Increased Cost is:

- (a) attributable to a Tax Deduction required by law to be made by an Obligor;
- (b) attributable to a FATCA Deduction required to be made by a Party;
- (c) compensated for by Clause 12.3 (*Tax indemnity*) (or would have been compensated for under Clause 12.3 (*Tax indemnity*) but was not so compensated solely because any of the exclusions in paragraph (b) of Clause 12.3 (*Tax indemnity*) applied); or
- (d) attributable to the wilful breach by the Lender or its Affiliates of any law or regulation.

### **14 OTHER INDEMNITIES**

#### **14.1 Currency indemnity**

- (a) If any sum due from an Obligor under the Finance Documents (a "**Sum**"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "**First Currency**") in which that Sum is payable into another currency (the "**Second Currency**") for the purpose of:
  - (i) making or filing a claim or proof against that Obligor; or
  - (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

that Obligor shall, as an independent obligation, on demand, indemnify the Lender to which that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

- (b) Each Obligor waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

## 14.2 Other indemnities

- (a) Each Obligor shall, within 3 Business Days of demand, indemnify the Lender and any Receiver or Delegate (if applicable) against any cost, loss or liability incurred by it as a result of:
- (i) the occurrence of any Event of Default;
  - (ii) a failure by a Transaction Obligor to pay any amount due under a Finance Document on its due date;
  - (iii) funding, or making arrangements to fund, the Advance requested by the Borrowers in the Utilisation Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by the Lender alone); or
  - (iv) the Loan (or part of the Loan) not being prepaid in accordance with a notice of prepayment given by the Borrowers;
  - (v) investigating any event which it reasonably believes is a Default;
  - (vi) acting or relying on any notice, request or instruction provided under or in connection with any of the Finance Documents which it reasonably believes to be genuine, correct and appropriately authorised; or
  - (vii) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under the Finance Documents; and
  - (viii) any cost, loss or liability incurred by the Lender (otherwise than by reason of the Lender's gross negligence or wilful misconduct) or, in the case of any cost, loss or liability pursuant to Clause 30.8 (*Disruption to Payment Systems etc.*) notwithstanding the Lender's negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Lender in acting as Lender under the Finance Documents.
- (b) Each Obligor shall, within 3 Business Days of demand, indemnify the Lender, each Affiliate of the Lender and any Receiver or Delegate (if applicable) and each officer or employee of the Lender or its Affiliate or any Receiver or Delegate (as applicable) (each such person for the purposes of this Clause 14.2 (Other indemnities) an "Indemnified Person"), against any cost, loss or liability incurred by that Indemnified Person pursuant to or in connection with any litigation, arbitration or administrative proceedings or regulatory enquiry, in connection with or arising out of the entry into and the transactions contemplated by the Finance Documents, having the benefit of any Security constituted by the Finance Documents or which relates to the condition or operation of, or any incident occurring in relation to, any Ship unless such cost, loss or liability is caused by the gross negligence or wilful misconduct of that Indemnified Person.
- (c) No Party other than the Lender or the Receiver or Delegate (as applicable) may take any proceedings against any officer, employee or agent of the Lender or the Receiver or Delegate (as applicable) in respect of any claim it might have against the Lender or the Receiver or Delegate or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Transaction Document or any Security Property.

- (d) Without limiting, but subject to any limitations set out in paragraph (b) above, the indemnity in paragraph (b) above shall cover any cost, loss or liability incurred by each Indemnified Person in any jurisdiction:
  - (i) arising or asserted under or in connection with any law relating to safety at sea, the ISM Code, any Environmental Law or any Sanctions; or
  - (ii) in connection with any Environmental Claim.

### **14.3 Indemnity to the Lender**

Each Obligor shall, within 3 Business Days of demand, indemnify the Lender and every Receiver or Delegate (as applicable) against any cost, loss or liability incurred by any of them:

- (a) in relation to or as a result of:
  - (i) any failure by a Borrower to comply with its obligations under Clause 16 (*Costs and Expenses*);
  - (ii) the taking, holding, protection or enforcement of the Finance Documents and the Transaction Security;
  - (iii) the exercise of any of the rights, powers, discretions, authorities and remedies vested in the Lender and each Receiver and Delegate by the Finance Documents or by law;
  - (iv) any default by any Transaction Obligor or any Approved Manager in the performance of any of the obligations expressed to be assumed by it in the Finance Documents;
  - (v) any action by any Transaction Obligor or any Approved Manager which vitiates, reduces the value of, or is otherwise prejudicial to, the Transaction Security; and
  - (vi) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under the Finance Documents.
  - (vii) acting as Lender, Receiver or Delegate under the Finance Documents or which otherwise relates to any of the Security Property or the performance of the terms of this Agreement or the other Finance Documents (otherwise, in each case, than by reason of the Lender's, Receiver's or Delegate's gross negligence or wilful misconduct).
- (b) Any Affiliate or Receiver or Delegate or any officer or employee of the Lender or of any of its Affiliates or any Receiver or Delegate (as applicable) may rely on this Clause 14.2 (*Other indemnities*) and the provisions of the Third Parties Act subject to Clause 1.5 (*Third party rights*) and the provisions of the Third Parties Act.

## **15 MITIGATION BY THE LENDER**

### **15.1 Mitigation**

- (a) The Lender shall, in consultation with the Borrowers, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 7.1 (Illegality), Clause 12 (Tax Gross Up and Indemnities), Clause 13 (Increased Costs) including (but not limited to) transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office.



- (b) Paragraph (a) above does not in any way limit the obligations of any Transaction Obligor or any Approved Manager under the Finance Documents.

## **15.2 Limitation of liability**

- (a) Each Obligor shall, within 3 Business Days of demand, indemnify the Lender for all costs and expenses reasonably incurred by the Lender as a result of steps taken by it under Clause 15.1 (Mitigation).
- (b) The Lender is not obliged to take any steps under Clause 15.1 (Mitigation) if either:
  - (i) a Default has occurred and is continuing; or
  - (ii) in the opinion of the Lender (acting reasonably), to do so might be prejudicial to it.

## **16 COSTS AND EXPENSES**

### **16.1 Transaction expenses**

The Obligors shall, within 15 days of demand, pay the Lender the amount of all costs and expenses (including legal fees but excluding any costs and expenses incurred in connection with Clause 28 (*Changes to the Lender*)) reasonably incurred by it in connection with the negotiation, preparation, printing, execution and perfection of:

- (a) this Agreement and any other documents referred to in this Agreement or in a Security Document; and
- (b) any other Finance Documents executed after the date of this Agreement.

### **16.2 Amendment costs**

If:

- (a) a Transaction Obligor requests an amendment, waiver or consent; or
- (b) an amendment is required pursuant to Clause 30.6 (Change of currency); or
- (c) a Transaction Obligor requests, and the Lender agrees to, the release of all or any part of the Security Assets from the Transaction Security,

the Obligors shall, within 15 days of demand, reimburse the Lender for the amount of all costs and expenses (including legal fees) reasonably incurred by the Lender in responding to, evaluating, negotiating or complying with that request or requirement.

### **16.3 Enforcement and preservation costs**

- (a) The Obligors shall, within 15 days of demand, pay to the Lender the amount of all costs and expenses (including legal fees) (supported by documentary evidence) incurred by the Lender in connection with the enforcement of, or the preservation of any rights under, any Finance Document or the Transaction Security and with any proceedings instituted by or against the Lender as a consequence of it entering into a Finance Document, taking or holding the Transaction Security, or enforcing those rights.

The Obligors shall, within 15 days of demand, pay to the Lender the amount of all sums (supported by documentary evidence) which the Lender may pay or become actually or contingently liable for on account of a Borrower in connection with a Ship (whether alone or jointly or jointly and severally with any other person) including (without limitation) all sums which the Lender may pay or guarantees which it may give in respect of the Insurances, any expenses incurred by the Lender in connection with the maintenance or repair of that Ship or in discharging any lien, bond or other claim relating in any way to that Ship, and any sums which the Lender may pay or guarantees which it may give to procure the release of that Ship from arrest or detention.

## SECTION 7

### GUARANTEES AND JOINT AND SEVERAL LIABILITY OF BORROWERS

#### 17 GUARANTEE AND INDEMNITY

##### 17.1 Guarantee and indemnity

The Parent Guarantor irrevocably and unconditionally:

- (a) guarantees to the Lender punctual performance by each other Obligor of all such other Obligor's obligations under the Finance Documents;
- (b) undertakes with the Lender that whenever another Obligor does not pay any amount when due under or in connection with any Finance Document, the Parent Guarantor shall immediately on demand pay that amount as if it were the principal obligor; and
- (c) agrees with the Lender that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify the Lender immediately on demand by the Lender against any cost, loss or liability it incurs as a result of another Obligor not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under any Finance Document on the date when it would have been due. The amount payable by the Parent Guarantor under this indemnity will not exceed the amount it would have had to pay under this Clause 17 (*Guarantee and Indemnity*) if the amount claimed had been recoverable on the basis of a guarantee.

##### 17.2 Continuing guarantee

This guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by any Obligor under the Finance Documents, regardless of any intermediate payment or discharge in whole or in part.

##### 17.3 Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is made by the Lender in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of the Parent Guarantor under this Clause 17 (*Guarantee and Indemnity*) will continue or be reinstated as if the discharge, release or arrangement had not occurred.

##### 17.4 Waiver of defences

The obligations of the Parent Guarantor under this Clause 17 (*Guarantee and Indemnity*) and in respect of any Transaction Security will not be affected or discharged by an act, omission, matter or thing which, but for this Clause 17.4 (*Waiver of defences*), would reduce, release or prejudice any of its obligations under this Clause 17 (*Guarantee and Indemnity*) or in respect of any Transaction Security (without limitation and whether or not known to it or the Lender) including:

- (a) any time, waiver or consent granted to, or composition with, any Transaction Obligor or other person;

- (b) the release of any other Transaction Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect or delay in perfecting, or refusal or neglect to take up or enforce, or delay in taking or enforcing any rights against, or security over assets of, any Transaction Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Finance Document or any other document or security including, without limitation, any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security; or
- (g) any insolvency or similar proceedings.

#### **17.5 Immediate recourse**

The Parent Guarantor waives any right it may have of first requiring the Lender (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person (including without limitation to commence any proceedings under any Finance Document or to enforce any Transaction Security) before claiming or commencing proceedings under this Clause 17 (*Guarantee and Indemnity*). This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

#### **17.6 Appropriations**

Until all amounts which may be or become payable by the Transaction Obligors under or in connection with the Finance Documents have been irrevocably paid in full, the Lender (or any trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by the Lender (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Parent Guarantor shall not be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any moneys received from the Parent Guarantor or on account of the Parent Guarantor's liability under this Clause 17 (*Guarantee and Indemnity*).

#### **17.7 Deferral of Parent Guarantor's rights**

All rights which the Parent Guarantor at any time has (whether in respect of this guarantee, a mortgage or any other transaction) against the Borrower, any other Transaction Obligor or their respective assets shall be fully subordinated to the rights of the Lender under the Finance Documents and until the end of the Security Period and unless the Lender otherwise directs,

the Parent Guarantor will not exercise any rights which it may have (whether in respect of any Finance Document to which it is a Party or any other transaction) by reason of performance by it of its obligations under the Finance Documents or by reason of any amount being payable, or liability arising, under this Clause 17 (*Guarantee and Indemnity*):

- (a) to be indemnified by a Transaction Obligor;
- (b) to claim any contribution from any third party providing security for, or any other guarantor of, any Transaction Obligor's obligations under the Finance Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Lender under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by the Lender;
- (d) to bring legal or other proceedings for an order requiring any Transaction Obligor to make any payment, or perform any obligation, in respect of which the Parent Guarantor has given a guarantee, undertaking or indemnity under Clause 17 (*Guarantee and Indemnity*);
- (e) to exercise any right of set-off against any Transaction Obligor; and/or
- (f) to claim or prove as a creditor of any Transaction Obligor in competition with the Lender.

If the Parent Guarantor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Lender by the Transaction Obligors under or in connection with the Finance Documents to be repaid in full on trust for the Lender and shall promptly pay or transfer the same to the Lender may direct for application in accordance with Clause 30 (*Payment Mechanics*).

#### **17.8 Additional security**

This guarantee and any other Security given by the Parent Guarantor is in addition to and is not in any way prejudiced by, and shall not prejudice, any other guarantee or Security or any other right of recourse now or subsequently held by the Lender or any right of set-off or netting or right to combine accounts in connection with the Finance Documents.

#### **17.9 Applicability of provisions of Guarantee to other Security**

Clauses 17.2 (*Continuing guarantee*), 17.3 (*Reinstatement*), 17.4 (*Waiver of defences*), 17.5 (*Immediate recourse*), 17.6 (*Appropriations*), 17.7 (*Deferral of Parent Guarantor's rights*) and 17.8 (*Additional security*) shall apply, with any necessary modifications, to any Security which the Parent Guarantor creates (whether at the time at which it signs this Agreement or at any later time) to secure the Secured Liabilities or any part of them.

### **18 JOINT AND SEVERAL LIABILITY OF THE BORROWERS**

#### **18.1 Joint and several liability**

All liabilities and obligations of the Borrowers under this Agreement shall, whether expressed to be so or not, be joint and several.

## **18.2 Waiver of defences**

The liabilities and obligations of a Borrower shall not be impaired by:

- (a) this Agreement being or later becoming void, unenforceable or illegal as regards any other Borrower;
- (b) the Lender entering into any rescheduling, refinancing or other arrangement of any kind with any other Borrower;
- (c) the Lender releasing any other Borrower or any Security created by a Finance Document; or
- (d) any time, waiver or consent granted to, or composition with any other Borrower or other person;
- (e) the release of any other Borrower or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (f) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any other Borrower or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (g) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any other Borrower or any other person;
- (h) any amendment, novation, supplement, extension, restatement (however fundamental, and whether or not more onerous) or replacement of a Finance Document or any other document or security including, without limitation, any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or security;
- (i) any unenforceability, illegality or invalidity of any obligation or any person under any Finance Document or any other document or security; or
- (j) any insolvency or similar proceedings.

## **18.3 Principal Debtor**

Each Borrower declares that it is and will, throughout the Security Period, remain a principal debtor for all amounts owing under this Agreement and the Finance Documents and no Borrower shall, in any circumstances, be construed to be a surety for the obligations of any other Borrower under this Agreement.

## **18.4 Borrower restrictions**

- (a) Subject to paragraph (b) below, during the Security Period no Borrower shall:
  - (i) claim any amount which may be due to it from any other Borrower whether in respect of a payment made under, or matter arising out of, this Agreement or any Finance Document, or any matter unconnected with this Agreement or any Finance Document; or

- (ii) take or enforce any form of security from any other Borrower for such an amount, or in any way seek to have recourse in respect of such an amount against any asset of any other Borrower; or
  - (iii) set off such an amount against any sum due from it to any other Borrower; or
  - (iv) prove or claim for such an amount in any liquidation, administration, arrangement or similar procedure involving any other Borrower; or
  - (v) exercise or assert any combination of the foregoing.
- (b) If during the Security Period, the Lender, by notice to a Borrower, requires it to take any action referred to in paragraph (a) above in relation to any other Borrower, that Borrower shall take that action as soon as practicable after receiving the Lender's notice.

**18.5 Deferral of Borrowers' rights**

Until all amounts which may be or become payable by the Borrowers under or in connection with the Finance Documents have been irrevocably paid in full and unless the Lender otherwise directs, no Borrower will exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents:

- (a) to be indemnified by any other Borrower; or
- (b) to claim any contribution from any other Borrower in relation to any payment made by it under the Finance Documents.

## SECTION 8

### REPRESENTATIONS, UNDERTAKINGS AND EVENTS OF DEFAULT

#### 19 REPRESENTATIONS

##### 19.1 General

Each Obligor makes the representations and warranties set out in this Clause 19 (*Representations*) to the Lender on the date of this Agreement.

##### 19.2 Status

- (a) It is, in the case of each Borrower, a limited liability company duly formed or, in the case of the Parent Guarantor, a corporation duly incorporated, and validly existing in good standing under the law of its Original Jurisdiction.
- (b) It has the power to own its assets and carry on its business as it is being conducted.

##### 19.3 Share capital, membership interests and ownership

- (a) The aggregate number of limited liability company interests that each Borrower is authorised to issue, expressed in terms of number of shares, is 500 limited liability company shares, all of which (being 100 per cent. of its limited liability company interests) have been issued to the Member.
- (b) The aggregate number of shares of registered stock that the Parent Guarantor is authorised to issue is 250,000,000 registered shares consisting of 249,000,000 registered common shares comprised of 214,000 Class A common shares (of which 9,942,950 are issued and outstanding), 20,000,000 Class B common shares and 15,000,000 Class C common shares, each with a par value of one United States cent (\$0.01) and 1,000,000 registered preferred shares, each with a par value of one United States cent (\$0.01). The Parent Guarantor has authorised 44,000 Series B Preferred shares (of which 14,000 are issued and outstanding) and 250,000 Series C Preferred Shares (of which 250,000 are issued and outstanding).
- (c) The aggregate number of limited liability company interests that the Member is authorised to issue, expressed in terms of number of shares, is 100 limited liability company shares, all of which (being 100 per cent. Of its limited liability company interests) have been issued to GSL Rome.
- (d) The aggregate number of limited liability company interests that GSL Rome is authorised to issue, expressed in terms of number of shares, is 100 limited liability company shares, all of which (being 100 per cent. of its limited liability company interests) have been issued to the Parent Guarantor.
- (e) The legal title to and beneficial interest in the limited liability company interests in each Borrower is held by the Member free of any Security other than Permitted Security or any other claim.
- (f) None of the limited liability company interests in any Borrower is subject to any option to purchase, pre-emption rights or similar rights.



#### **19.4 Binding obligations**

The obligations expressed to be assumed by it in each Transaction Document and each Charter to which it is a party are legal, valid, binding and enforceable obligations.

#### **19.5 Validity, effectiveness and ranking of Security**

- (a) Each Finance Document to which it and an Approved Manager is a party does now or, as the case may be, will upon execution and delivery create the Security it purports to create over any assets to which such Security, by its terms, relates, and such Security will, when created or intended to be created, be valid and effective.
- (b) No third party has or will have any Security (except for Permitted Security) over any assets that are the subject of any Transaction Security granted by it.
- (c) The Transaction Security granted by it to the Lender has or will when created or intended to be created have first ranking priority or such other priority it is expressed to have in the Finance Documents and is not subject to any prior ranking or pari passu ranking security.
- (d) No concurrence, consent or authorisation of any person is required for the creation of or otherwise in connection with any Transaction Security.

#### **19.6 Non-conflict with other obligations**

The entry into and performance by it of, and the transactions contemplated by, each Transaction Document and each Charter to which it is a party do not and will not conflict with:

- (a) any law or regulation applicable to it;
- (b) its constitutional documents; or
- (c) any agreement or instrument binding upon it or any other Transaction Obligor or an Approved Manager or any of its assets of any other Transaction Obligor's or an Approved Manager's assets or constitute a default or termination event (however described) under any such agreement or instrument.

#### **19.7 Power and authority**

- (a) It has the power to enter into, perform and deliver, and has taken all necessary action to authorise:
  - (i) its entry into, performance and delivery of, each Transaction Document and each Charter to which it is or will be a party and the transactions contemplated by those Transaction Documents or, as the case may be, that Charter; and
  - (ii) in the case of each Borrower, its registration of the relevant Ship under the Approved Flag for that Ship;
- (b) No limit on its powers will be exceeded as a result of the borrowing, granting of security or giving of guarantees or indemnities contemplated by the Transaction Documents and the Charters (or any of them) to which it is a party.

### **19.8 Validity and admissibility in evidence**

All Authorisations required or desirable:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Transaction Documents to which it is a party; and
- (b) to make the Transaction Documents to which it is a party admissible in evidence in its Relevant Jurisdictions, have been obtained or effected and are in full force and effect.

### **19.9 Governing law and enforcement**

- (a) The choice of governing law of each Transaction Document to which it is a party will be recognised and enforced in its Relevant Jurisdictions.
- (b) Any judgment obtained in relation to a Transaction Document to which it is a party in the jurisdiction of the governing law of that Transaction Document will be recognised and enforced in its Relevant Jurisdictions.

### **19.10 Insolvency**

No:

- (a) corporate action, legal proceeding or other procedure or step described in paragraph (a) of Clause 27.8 (*Insolvency proceeding*); or
- (b) creditors' process described in Clause 27.9 (*Creditors' process*),

has been taken or, threatened in relation to any other Transaction Obligor or, to the best of its knowledge, any Approved Manager; and none of the circumstances described in Clause 27.7 (*Insolvency*) applies to any other Transaction Obligor or, to the best of its knowledge, any Approved Manager.

### **19.11 No filing or stamp taxes**

Under the laws of its Relevant Jurisdictions it is not necessary that the Finance Documents to which it is a party be registered, filed, recorded, notarised or enrolled with any court or other authority in that jurisdiction or that any stamp, registration, notarial or similar Taxes or fees be paid on or in relation to the Finance Documents to which it is a party or the transactions contemplated by those Finance Documents.

### **19.12 Deduction of Tax**

It is not required to make any Tax Deduction from any payment it may make under any Finance Document to which it is a party.

### **19.13 No default**

- (a) No Event of Default and, on the date of this Agreement and on the Utilisation Date, no Default is continuing or might reasonably be expected to result from the making of any Utilisation or

the entry into, the performance of, or any transaction contemplated by, any Transaction Document.

- (b) No other event or circumstance is outstanding which constitutes a default or a termination event (however described) under any other agreement or instrument which is binding on it or (in the case of the Parent Guarantor on any of its Subsidiaries) or to which its (or in the case of the Parent Guarantor, any of its Subsidiaries') assets are subject which might have a Material Adverse Effect.

**19.14 No misleading information**

- (a) Any factual information provided by any Transaction Obligor or an Approved Manager for the purposes of this Agreement was true and accurate in all material respects as at the date it was provided or as at the date (if any) at which it is stated.
- (b) The financial projections contained in any such information have been prepared on the basis of recent historical information and on the basis of reasonable assumptions.
- (c) Nothing has occurred or been omitted from any such information and no information has been given or withheld that results in any such information untrue or misleading in any material respect.

**19.15 Financial Statements**

- (a) In the case of the Parent Guarantor:
  - (i) Its Original Financial Statements were prepared in accordance with GAAP or IFRS (at the Obligors' option) consistently applied unless expressly disclosed to the Lender in writing to the contrary before the date of this Agreement.
  - (ii) Its Original Financial Statements fairly present its financial condition as at the end of the relevant financial year and its results of operations during the relevant financial year (consolidated in the case of the Parent Guarantor).
  - (iii) There has been no material adverse change in its assets, business or financial condition since 31 December 2018.
- (b) In the case of Parent Guarantor:
  - (i) its most recent financial statements delivered pursuant to Clause 20.2 (*Financial statements*);
  - (ii) have been prepared in accordance with Clause 20.3 (*Requirements as to financial statement*); and
  - (iii) fairly present its financial condition as at the end of the relevant financial year and operations during the relevant financial year (consolidated in the case of the Parent Guarantor).
- (c) Since the date of the most recent financial statements delivered pursuant to Clause 20.2 (*Financial statements*) there has been no material adverse change in its or any other Obligor's business, assets or financial condition.

**19.16 Pari passu ranking**

Its payment obligations under the Finance Documents to which it is a party rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

**19.17 No proceedings pending or threatened**

No litigation, arbitration or administrative proceedings or investigations (including proceedings or investigations relating to any alleged or actual breach of the ISM Code or of the ISPS Code) of or before any court, arbitral body or agency have which, if adversely determined, might reasonably be expected to have a Material Adverse Effect (to the best of its knowledge and belief (having made due and careful enquiry)) been started or threatened against it or any other Transaction Obligor.

**19.18 Valuations**

- (a) All information supplied by it or on its behalf to an Approved Valuer for the purposes of a valuation delivered to the Lender in accordance with this Agreement was true and accurate as at the date it was supplied or (if appropriate) as at the date (if any) at which it is stated to be given.
- (b) It has not omitted to supply any information to an Approved Valuer which, if disclosed, would adversely affect any valuation prepared by such Approved Valuer.
- (c) There has been no change to the factual information provided pursuant to paragraph (a) above in relation to any valuation between the date such information was provided and the date of that valuation which, in either case, renders that information untrue or misleading in any material respect.

**19.19 No breach of laws**

It has not and, to the best of its knowledge and belief, no other member of the Group has breached any law or regulation which breach has a Material Adverse Effect.

**19.20 No Charter**

No Ship is subject to any Charter other than a Permitted Charter.

**19.21 Compliance with Environmental Laws**

In respect of the ownership, operation and management of each Ship all Environmental Laws and the terms of all Environmental Approvals have been complied with and, in respect of the business of each other Transaction Obligor (as now conducted and as reasonably anticipated to be conducted in the future), no Obligor has any knowledge or belief that any Environmental Law or Environmental Approval has not been complied with.

**19.22 No Environmental Claim**

No Environmental Claim has been made or threatened against any other Transaction Obligor or any Ship.

**19.23 No Environmental Incident**

No Environmental Incident has occurred and no person has claimed that an Environmental Incident has occurred.

**19.24 ISM and ISPS Code compliance**

All requirements of the ISM Code and the ISPS Code as they relate to each Borrower, the Approved Technical Manager and each Ship have been complied with.

**19.25 Taxes paid**

- (a) It is not materially overdue in the filing of any Tax returns and it is not overdue in the payment of any amount in respect of Tax.
- (b) No claims or investigations are being made or conducted against it with respect to Taxes and it has no knowledge or belief that claims or investigations in respect of Taxes are being made or conducted against any other Transaction Obligor.

**19.26 Financial Indebtedness**

No Borrower has any Financial Indebtedness outstanding other than:

- (a) Permitted Financial Indebtedness; or
- (b) any guarantee or indemnity issued in the ordinary course of its business of operating, trading and chartering the Ship owned by it.

**19.27 Overseas companies**

No other Transaction Obligor nor any Approved Manager has delivered particulars, whether in its name stated in the Finance Documents or any other name, of any UK Establishment to the Registrar of Companies as required under the Overseas Regulations or, if it has so registered, it has provided to the Lender sufficient details to enable an accurate search against it to be undertaken by the Lender at the Companies Registry.

**19.28 Good title to assets**

It and each other Transaction Obligor and each Approved Manager has good, valid and marketable title to, or valid leases or licences of, and all appropriate Authorisations to use, the assets necessary to carry on its business as presently conducted.

**19.29 Ownership**

- (a) On the Utilisation Date, the relevant Borrower will be the sole legal and beneficial owner of the relevant Ship, its Earnings and its Insurances.
- (b) With effect on and from the date of its creation or intended creation, each Transaction Obligor and each Approved Manager will be the sole legal and beneficial owner of any asset that is the subject of any Transaction Security created or intended to be created by such Transaction Obligor or such Approved Manager.

- (c) The constitutional documents of each Transaction Obligor do not and could not restrict or inhibit any transfer of the shares of the Borrowers on creation or enforcement of the security conferred by the Security Documents.

#### **19.30 Centre of main interests and establishments**

For the purposes of The Council of the European Union Regulation No. 2015/848 on Insolvency Proceedings (recast) (the "Regulation"), its centre of main interest (as that term is used in Article 3(1) of the Regulation) is situated in Greece and it has no "establishment" (as that term is used in Article 2(10) of the Regulation) in any other jurisdiction.

#### **19.31 Place of business**

No Transaction Obligor has a place of business in any country other than Greece.

#### **19.32 No employee or pension arrangements**

No Transaction Obligor has any employees or any liabilities under any pension scheme.

#### **19.33 Sanctions**

- (a) No Transaction Obligor or Approved Manager:

- (i) is a Prohibited Person;
- (ii) is owned or controlled by or acting directly or indirectly on behalf of or for the benefit of, a Prohibited Person;
- (iii) owns or controls a Prohibited Person; or
- (iv) has a Prohibited Person serving as a director, officer or, to the best of its knowledge, employee.

- (b) No proceeds of the Loan shall be made available, directly or indirectly, to or for the benefit of a Prohibited Person nor shall they be otherwise directly or indirectly, applied in a manner or for a purpose prohibited by Sanctions.

#### **19.34 US Tax Obligor**

No Transaction Obligor is a US Tax Obligor.

#### **19.35 Anti-corruption law**

Each Obligor and each Affiliate of any of them has conducted its respective business in compliance with applicable anti-corruption laws and has instituted and maintained procedures designed to promote and achieve compliance with such laws, and to the best knowledge and belief of each Obligor, each member of the Group and each Affiliate of any of them has conducted its respective business in compliance with applicable anti-corruption laws and has instituted and maintained procedures designed to promote and achieve compliance with such laws.

### **19.36 Completeness of documents**

The copies of any Transaction Documents and any Charter and any other relevant documents provided or to be provided by the Borrowers to the Lender in accordance with Clause 4 (*Conditions of Utilisation*) are, or will be, true and accurate copies of the originals and represent, or will represent, the full agreement between the parties to those documents and there are no commission, rebates, premiums or other payments due or to become due in connection with the subject matter of those documents other than as disclosed to, and approved in writing by, the Lender.

### **19.37 Money Laundering**

Any borrowing by the Borrowers under this Agreement, and the performance of its obligations under the Finance Documents, will be for its own account and will not involve any breach by it of any law or regulatory measure relating to "money laundering" as defined in Article 1 of the Directive 2015/849/EC of the European Parliament and of the Council of the European Communities.

### **19.38 Repetition**

The Repeating Representations are deemed to be made by each Obligor by reference to the facts and circumstances then existing on the date of the Utilisation Request and the first day of each Interest Period.

## **20 INFORMATION UNDERTAKINGS**

### **20.1 General**

The undertakings in this Clause 20 (*Information Undertakings*) remain in force throughout the Security Period unless the Lender, may otherwise permit.

### **20.2 Financial statements**

The Parent Guarantor shall supply to the Lender:

- (a) as soon as they become available, but in any event within 120 days after the end of each of the Parent Guarantor's financial year, its consolidated audited financial statements for that financial year as presented in the Parent Guarantor's 20-F filing;
- (b) as soon as the same become available, but in any event within 90 days after the end of each quarter of each of their respective financial years, its consolidated unaudited financial statements for that financial quarter as presented in the Parent Guarantor's 6K filing.

### **20.3 Requirements as to financial statements**

- (a) Each set of financial statements delivered by the Parent Guarantor pursuant to Clause 20.2 (Financial statements) shall fairly represent its financial condition and operations as at the date as at which those financial statements were drawn up.
- (b) The Obligors shall procure that each set of financial statements of the Parent Guarantor delivered pursuant to Clause 20.2 (Financial statements) is prepared using GAAP.

#### **20.4 Information: miscellaneous**

Each Obligor shall and shall procure that each other Transaction Obligor shall (and in the case of paragraphs (b) (c) (d), subparagraphs (i), (ii) and (iii) of paragraph (e) and (f) below, any Approved Manager and in the case of paragraphs (b) and (c) and subparagraph (iv) of paragraph (e) below, the Parent Guarantor shall supply) to the Lender:

- (a) as soon as practically possible after Lender's request, all material documents dispatched by it to its shareholders (or any class of them) in their capacity as shareholders or its creditors which are not considered of a confidential nature;
- (b) promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings or investigations (including proceedings or investigations relating to any alleged or actual breach of the ISM Code or of the ISPS Code) which are current, threatened or pending against any other Transaction Obligor, and which might, if adversely determined, have a Material Adverse Effect;
- (c) promptly upon becoming aware of them, the details of any judgment or order of a court, arbitral body or agency which is made against any other Transaction Obligor and which might have a Material Adverse Effect;
- (d) promptly, its constitutional documents where these have been amended or varied;
- (e) promptly, such further information and/or documents regarding:
  - (i) each Ship, goods transported on each Ship, its Earnings and its Insurances;
  - (ii) the Security Assets which are the subject of the Transaction Security created under the Security Documents to which it is a party;
  - (iii) compliance of the Transaction Obligors and the Approved Managers with the terms of the Finance Documents;
  - (iv) the financial condition, business and operations of any other Transaction Obligor,as the Lender may reasonably request; and
- (f) promptly, such further information and/or documents as the Lender may reasonably request so as to enable the Lender to comply with any laws applicable to it or as may be required by any regulatory authority in connection with the Finance Documents.

#### **20.5 Notification of Default**

- (a) Each Obligor shall, and shall procure that each other Transaction Obligor shall, notify the Lender of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence (unless that Obligor is aware that a notification has already been provided by another Obligor).
- (b) Promptly upon a request by the Lender, each Borrower shall supply to the Lender a certificate signed by one of its officers on its behalf certifying that no Default is continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).



## 20.6 "Know your customer" checks

- (a) If:
- (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Agreement;
  - (ii) any change in the status of a Transaction Obligor (including, without limitation, a change of ownership of a Transaction Obligor) after the date of this Agreement; or
  - (iii) a proposed assignment or transfer by the Lender of any of its rights and obligations under this Agreement,

obliges the Lender (or, in the case of sub-paragraph (iii) above, any prospective assignee) to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to it, each Obligor shall promptly upon the request of the Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Lender (for itself or, in the case of the event described in paragraph (iii) above, on behalf of any prospective assignee) in order for the Lender or, in the case of the event described in sub-paragraph (iii) above, on behalf of any prospective new Lender in order for the Lender or, in the case of the event described in sub-paragraph (iii) above, any prospective assignee to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

## 21 FINANCIAL COVENANTS

### 21.1 Minimum Liquidity Amount

The Obligors shall ensure that on and from the Utilisation Date and throughout the Security Period, there is standing to the credit of the Minimum Liquidity Account a credit balance in an amount of not less than the Minimum Liquidity Amount to be held by the Lender on behalf of the Borrowers as a custodian and as security for the Secured Liabilities under this Agreement.

### 21.2 Reduction of Minimum Liquidity Amount in the case of Mandatory Prepayment on sale or Total Loss

Subject to the provisions of Clause 7.6 (*Restrictions*) if, at any time throughout the Security Period the Borrowers make a prepayment in accordance with and pursuant to the provisions of Clause 7.5 (*Mandatory Prepayment on sale or Total Loss*), the Lender shall reduce the Minimum Liquidity Amount by an amount which is equal to the Minimum Liquidity Amount multiplied by a fraction whose:

- (a) numerator is the Relevant Amount determined in accordance with the provisions of Clause 7.5 (*Mandatory prepayment on sale or Total Loss*); and
- (b) denominator is the Commitment,

such amount to be released to the Borrowers' nominated account **Provided that** neither a Default has occurred which is continuing nor the release of such amount to the Borrowers would result in the occurrence of a Default.

### **21.3 Release of Minimum Liquidity Amount**

At the end of the Security Period, the Lender will return to the Borrowers' nominated account the Minimum Liquidity Amount standing to the credit of the Minimum Liquidity Account at the relevant time or the Borrowers may, at their discretion, set off the amount of the sixtieth (60th) Repayment Instalment due against the Minimum Liquidity Amount standing to the credit of the Minimum Liquidity Account at the time of repayment of such Repayment Instalment.

### **21.4 Minimum Liquidity Amount in the case of insolvency of the Lender**

In the event that any corporate action, legal proceedings or other similar legal procedure or similar legal step is taken in relation to:

- (i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Lender and/or the Minimum Liquidity Account Bank;
- (ii) the appointment of a liquidator, receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of the Lender and/or the Minimum Liquidity Account Bank or any of its assets; or
- (iii) enforcement of any Security over any assets of the Lender and/or the Minimum Liquidity Account Bank,

or any analogous procedure or step is taken in any jurisdiction against the Lender and/or the Minimum Liquidity Account Bank and the Minimum Liquidity Amount is blocked in the Minimum Liquidity Account and cannot be released and/or transferred to the Borrowers' nominated account in accordance with the provisions of this Agreement, the Minimum Liquidity Amount standing to the credit of the Minimum Liquidity Account shall be automatically set off against the Loan and the Loan shall be reduced accordingly.

## **22 GENERAL UNDERTAKINGS**

### **22.1 General**

The undertakings in this Clause 21 (*General Undertakings*) remain in force throughout the Security Period except as Lender may otherwise permit (and in respect of Clauses 22.16 (*Financial Indebtedness*) and 22.20(B) (*Other transactions*) such permission not to be unreasonably withheld or delayed).

### **22.2 Authorisations**

Each Obligor shall, and shall procure that each other Transaction Obligor and each Approved Manager will (where applicable), promptly:

- (a) obtain, comply with and do all that is necessary to maintain in full force and effect; and
- (b) supply certified copies to the Lender of,

any Authorisation required under any law or regulation of a Relevant Jurisdiction or the state of the Approved Flag at any time of each Ship or other vessel to enable it to:

- (i) perform its obligations under the Transaction Documents to which it is a party;
- (ii) ensure the legality, validity, enforceability or admissibility in evidence in any Relevant Jurisdiction or in the state of the Approved Flag at any time of each Ship or other vessel, of any Transaction Document to which it is a party; and
- (iii) own and operate each Ship (in the case of the Borrowers).

### **22.3 Compliance with laws**

Each Obligor shall, and shall procure that each other Transaction Obligor and each Approved Manager will, comply in all respects with all laws and regulations to which it may be subject, if failure so to comply has a Material Adverse Effect.

### **22.4 Environmental compliance**

Each Obligor shall, and shall (i) ensure that each other Transaction Obligor and (ii) use its best efforts and have appropriate controls in place to procure each Approved Manager, will:

- (a) comply with all Environmental Laws;
  - (b) obtain, maintain and ensure compliance with all requisite Environmental Approvals;
  - (c) implement procedures to monitor compliance with and to prevent liability under any Environmental Law,
- where failure to do so has a Material Adverse Effect.

### **22.5 Environmental Claims**

Each Obligor shall, and shall procure that each other Transaction Obligor and each Approved Manager will use its best efforts to, promptly upon becoming aware of the same, inform the Lender in writing of:

- (a) any Environmental Claim against any Transaction Obligor or any Approved Manager which is current, pending or threatened; and
- (b) any facts or circumstances which are reasonably likely to result in any Environmental Claim being commenced or threatened against any Transaction Obligor or any Approved Manager,

where the claim, if determined against that Transaction Obligor or that Approved Manager, has a Material Adverse Effect.

### **22.6 Anti-corruption law**

- (a) Each Obligor shall not directly or indirectly use the proceeds of the Loan for any purpose which would breach the Bribery Act 2010, the United States Foreign Corrupt Practices Act of 1977 or other similar legislation in other jurisdictions.
- (b) Each Obligor shall:
  - (i) conduct its businesses in compliance with applicable anti-corruption laws; and
  - (ii) maintain procedures designed to promote and achieve compliance with such laws.

## 22.7 Taxation

- (a) Each Obligor shall, and shall procure that each other Transaction Obligor will, pay and discharge all Taxes imposed upon it or its assets within the time period allowed without incurring penalties unless and only to the extent that:
- (i) such payment is being contested in good faith;
  - (ii) adequate reserves are maintained for those Taxes and the costs required to contest them and, in relation to the Parent Guarantor, both have been disclosed in its latest financial statements delivered to the Lender under Clause 20.2 (*Financial statements*) to the extent that such disclosure is required by NYSE/SEC rules or requirements; and
  - (iii) such payment can be lawfully withheld and failure to pay those Taxes does not have a Material Adverse Effect.
- (b) No Obligor shall, and the Parent Guarantor shall procure that no other Transaction Obligor will, change its residence for Tax purposes.

## 22.8 Overseas companies

Each Obligor shall, and shall procure that each other Transaction Obligor and each Approved Manager will, promptly inform the Lender if it delivers to the Registrar particulars required under the Overseas Regulations of any UK Establishment and it shall comply with any directions given to it by the Lender regarding the recording of any Transaction Security on the register which it is required to maintain under The Overseas Companies (Execution of Documents and Registration of Charges) Regulations 2009.

## 22.9 No change to centre of main interests

No Obligor shall change the location of its centre of main interest (as that term is used in Article 3(1) of the Regulation) from that stated in relation to it in Clause 19.30 (*Centre of main interests and establishments*) and it will create no "establishment" (as that term is used in Article 2(10) of the Regulation) in any other jurisdiction.

## 22.10 Pari passu ranking

Each Obligor shall, and shall procure that each other Transaction Obligor will, ensure that at all times any unsecured and unsubordinated claims of the Lender against it under the Finance Documents rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors except those creditors whose claims are mandatorily preferred by laws of general application to companies.

## 22.11 Title

- (a) Each Borrower shall hold the legal title to, and own the entire beneficial interest in that Ship, its Earnings and its Insurances (except where a third party may be named as co-assured) in respect of that Ship; and
- (b) with effect on and from its creation or intended creation, any other assets which are the subject of any Transaction Security created or intended to be created by such Borrower.

- (c) The Parent Guarantor shall hold the legal title to, and own the entire beneficial interest in with effect on and from its creation or intended creation, any assets which are the subject of any Transaction Security created or intended to be created by the Parent Guarantor.
- (d) Each Borrower shall remain a wholly owned Subsidiary of the Parent Guarantor at all times.

#### **22.12 Negative pledge**

- (a) Neither the Borrowers or the Member shall create or permit to subsist any Security over any of its assets which are the subject of the Security created or intended to be created by the Finance Documents.
- (b) No Borrower shall:
  - (i) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by a Transaction Obligor or any other member of the Group;
  - (ii) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
  - (iii) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
  - (iv) enter into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

- (c) Paragraphs (a) and (b) above do not apply to any Permitted Security.

#### **22.13 Disposals**

- (a) No Borrower shall enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any asset (including without limitation any Ship, its Earnings or its Insurances) except for a sale of a Ship owned by it with respect to which a mandatory prepayment pursuant to the provisions of Clauses 7.5 (Mandatory prepayment on sale or Total Loss) and 7.6 (Restrictions) is made and provided any other terms of this Agreement are complied with.
- (b) Paragraph (a) above does not apply to any Charter as all Charters are subject to Clause 24.16 (Restrictions on chartering, appointment of *managers etc.*).

#### **22.14 Merger**

No Obligor shall enter into any amalgamation, demerger, merger, consolidation or corporate reconstruction **Provided that** in the case of the Parent Guarantor such amalgamation, demerger, merger, consolidation or corporate reconstruction is permitted without restrictions so long as (i) the Parent Guarantor remains the surviving entity of any such process, (ii) no Default has occurred at the relevant time or would be triggered as a result of such process and (iii) the process of any such further amalgamation, demerger, merger, consolidation or corporate reconstruction does not have a Material Adverse Effect.

### **22.15 Change of business**

- (a) The Parent Guarantor shall procure that no substantial change is made to the general nature of the business of the Parent Guarantor from that carried on at the date of this Agreement.
- (b) No Borrower shall engage in any business other than the ownership and operation of its Ship.

### **22.16 Financial Indebtedness**

No Borrower shall, incur or permit to be outstanding any Financial Indebtedness except:

- (a) Permitted Financial Indebtedness; or
- (b) any guarantee or indemnity issued in the ordinary course of its business of operating, trading and chartering the Ship owned by it.

### **22.17 Expenditure**

No Borrower shall incur any expenditure, except for expenditure or trade debt reasonably incurred in the ordinary course of owning, operating, chartering, maintaining and repairing its Ship.

### **22.18 Share capital**

No Borrower shall:

- (a) purchase, cancel or redeem any of its limited liability company interests;
- (b) increase or reduce its authorised limited liability company interests;
- (c) issue any further limited liability company interests except to the Member or GSL Rome or the Parent Guarantor and provided such limited liability company interests are made subject to the terms of the LLC Interests Security applicable to that Borrower immediately upon the issue of such limited liability company interests in a manner satisfactory to the Lender and the terms of that LLC Interests Security are complied with;
- (d) appoint any further officer of that Borrower (unless the provisions of the LLC Interests Security applicable to that Borrower are complied with).

### **22.19 Dividends**

Each Borrower shall be entitled to make or pay any dividend or other distribution having similar effect (in cash or in kind) in respect of its limited liability company interests **Provided that** neither a Default has occurred which is continuing nor the making or payment of such dividend or distribution would result in the occurrence of a Default.

### **22.20 Other transactions**

No Borrower will:

- (a) be the creditor in respect of any loan or any form of credit to any person other than another Transaction Obligor and where such loan or form of credit is Permitted Financial Indebtedness;

- (b) give or allow to be outstanding any guarantee or indemnity to or for the benefit of any person in respect of any obligation of any other person or enter into any document under which that Borrower assumes any liability of any other person other than any guarantee or indemnity given under the Finance Documents or any guarantee or indemnity issued in the ordinary course of its business of operating, trading and chartering the Ship owned by it.
- (c) enter into any material agreement other than:
  - (i) the Transaction Documents, the Management Agreements and the Permitted Charters;
  - (ii) any other agreement expressly allowed under any other term of this Agreement or in the ordinary course of that Borrower's business of operating, trading and chartering the Ship owned by it; and
- (d) enter into any transaction on terms which are, in any respect, less favourable to that Borrower than those which it could obtain in a bargain made at arms' length; or
- (e) acquire any shares or other securities other than US or UK Treasury bills and certificates of deposit issued by major North American or European banks.

**22.21 No substantial liabilities**

Without prejudice to the Borrowers' other obligations under this Clause 21 (*General Undertakings*), except for any Permitted Financial Indebtedness and as otherwise provided by this Agreement, no Borrower shall incur any liability to any third party which is in the Lender's opinion of a substantial nature.

**22.22 Unlawfulness, invalidity and ranking; Security imperilled**

No Obligor shall, (and the Parent Guarantor shall procure that no other member of the Group or any Approved Manager will) do (or fail to do) or cause or permit another person to do (or omit to do) anything which is likely to:

- (a) make it unlawful for a Transaction Obligor to perform any of its obligations under the Transaction Documents or, in the case of an Approved Manager, any of its obligations under the Transaction Documents to which it is party;
- (b) cause any obligation of a Transaction Obligor under the Transaction Documents, or in the case of an Approved Manager, under the Transaction Documents to which it is party to cease to be legal, valid, binding or enforceable;
- (c) cause any Transaction Document to cease to be in full force and effect;
- (d) cause any Transaction Security to rank after, or lose its priority to, any other Security; and
- (e) imperil or jeopardise the Transaction Security.

**22.23 Further assurance**

- (a) Each Obligor shall, and shall procure that each other Transaction Obligor and each Approved Manager will, promptly, and in any event within the time period specified by the Lender do all such acts (including procuring or arranging any registration, notarisation or authentication or

the giving of any notice) or execute or procure execution of all such documents (including assignments, transfers, mortgages, charges, notices, instructions, acknowledgments, proxies and powers of attorney), as the Lender may specify (and in such form as the Lender may require in favour of the Lender or its nominee(s)):

- (i) to create, perfect, vest in favour of the Lender or protect the priority of the Security or any right of any kind created or intended to be created under or evidenced by the Finance Documents to which such Transaction Obligor or such Approved Manager is a party (which may include the execution of a mortgage, charge, assignment or other Security over all or any of the assets which are, or are intended to be, the subject of the Transaction Security) or for the exercise of any rights, powers and remedies of any of the Lender or any Receiver or Delegate (as applicable) provided by or pursuant to the Finance Documents or by law;
  - (ii) to confer on the Lender Security over any property and assets of that Transaction Obligor located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to the Finance Documents;
  - (iii) to facilitate or expedite the realisation and/or sale of, the transfer of title to or the grant of, any interest in or right relating to the assets which are, or are intended to be, the subject of the Transaction Security or to exercise any power specified in any Finance Document in respect of which the Security has become enforceable; and/or
  - (iv) to enable or assist the Lender to enter into any transaction to commence, defend or conduct any proceedings and/or to take any other action relating to any item of the Security Property.
- (b) Each Obligor shall, and shall procure that each other Transaction Obligor and each Approved Manager will, take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Lender by or pursuant to the Finance Documents.
- (c) At the same time as an Obligor delivers to the Lender any document executed by itself or another Transaction Obligor or any Approved Manager pursuant to this Clause 22.23 (Further assurance), that Obligor shall deliver, or shall procure that such other Transaction Obligor or such Approved Manager will deliver, to the Lender a certificate signed by one of that Obligor's or Transaction Obligor's or Approved Manager's directors or officers or member, as applicable, which shall:
- (i) set out the text of a resolution of that Obligor's or Transaction Obligor's or Approved Manager's directors or member, as applicable, specifically authorising the execution of the document specified by the Lender; and
  - (ii) state that either the resolution was duly passed at a meeting of the directors or member, as applicable, validly convened and held, throughout which a quorum of directors or members entitled to vote on the resolution was present, or that the resolution has been signed by all the directors or members and is valid under that Obligor's or Transaction Obligor's or Approved Manager's articles of incorporation, limited liability company agreement or other constitutional documents.



## **23 INSURANCE UNDERTAKINGS**

### **23.1 General**

The undertakings in this Clause 23 (*Insurance Undertakings*) remain in force from the date of this Agreement throughout the rest of the Security Period except as the Lender may otherwise permit.

### **23.2 Maintenance of obligatory insurances**

Each Borrower shall keep the Ship owned by it insured at its expense against:

- (a) fire and usual marine risks (including hull and machinery and excess risks);
- (b) war risks (including, without limitation, protection and indemnity war risks, piracy and terrorism);
- (c) protection and indemnity risks (including, without limitation, freight demurrage and defence cover); and
- (d) any other risks against which the Lender considers, having regard to practices and other circumstances prevailing at the relevant time, it would be reasonable for that Borrower to insure and which are specified by the Lender by notice to that Borrower.

### **23.3 Terms of obligatory insurances**

The Borrowers shall effect such insurances:

- (a) in dollars;
- (b) in the case of fire and usual marine risks and war risks, in an amount on an agreed value basis, in relation to each Ship, at least the greater of:
  - (i) an amount which equals at least 120 per cent. of the Loan in relation to that Ship; and
  - (ii) the Market Value of that Ship;
- (c) in the case of oil pollution liability risks, for an aggregate amount equal to the highest level of cover from time to time available under basic protection and indemnity club as per International Group of Protection & Indemnity Clubs;
- (d) in the case of protection and indemnity risks, in respect of the full tonnage of each Ship;
- (e) on approved terms; and
- (f) through Approved Brokers and with approved insurance companies and/or underwriters or, in the case of war risks and protection and indemnity risks, in approved war risks and protection and indemnity risks associations.

### **23.4 Further protections for the Lender**

In addition to the terms set out in Clause 23.3 (*Terms of obligatory insurances*), each Borrower shall procure that the obligatory insurances effected by it shall:

- (a) subject always to paragraph (b), name that Borrower as the sole named insured unless the interest of every other named insured is limited:
  - (i) in respect of any obligatory insurances for hull and machinery and war risks;
    - (A) to any provable out-of-pocket expenses that it has incurred and which form part of any recoverable claim on underwriters; and
    - (B) to any third party liability claims where cover for such claims is provided by the policy (and then only in respect of discharge of any claims made against it); and
  - (ii) in respect of any obligatory insurances for protection and indemnity risks, to any recoveries it is entitled to make by way of reimbursement following discharge of any third party liability claims made specifically against it;

and every other named insured has undertaken in writing to the Lender (in such form as it requires) that any deductible shall be apportioned between that Borrower and every other named insured in proportion to the gross claims made or paid by each of them and that it shall do all things necessary and provide all documents, evidence and information to enable to the Lender to collect or recover any moneys which at any time become payable in respect of the obligatory insurances;

- (b) whenever to the Lender requires, name (or be amended to name) to the Lender as additional named insured for its rights and interests, warranted no operational interest and with full waiver of rights of subrogation against to the Lender, but without to the Lender being liable to pay (but having the right to pay) premiums, calls or other assessments in respect of such insurance;
- (c) name the Lender as loss payee with such directions for payment as the Lender may specify;
- (d) provide that all payments by or on behalf of the insurers under the obligatory insurances to the Lender shall be made without set off, counterclaim or deductions or condition whatsoever;
- (e) provide that the obligatory insurances shall be primary without right of contribution from other insurances which may be carried by the Lender; and
- (f) provide that the Lender may make proof of loss if that Borrower fails to do so.

### **23.5 Renewal of obligatory insurances**

Each Borrower shall:

- (a) at least 7 days before the expiry of any obligatory insurance effected by it:
  - (i) notify the Lender of the Approved Brokers (or other insurers) and any protection and indemnity or war risks association through or with which it proposes to renew that obligatory insurance and of the proposed terms of renewal; and
  - (ii) obtain the Lender's approval to the matters referred to in sub-paragraph (i) above;

- (b) at least 7 days before the expiry of any obligatory insurance, renew that obligatory insurance in accordance with the Lender's approval pursuant to paragraph (a) above; and
- (c) procure that the Approved Brokers and/or the approved war risks and protection and indemnity associations with which such a renewal is effected shall promptly after the renewal notify the Lender in writing of the terms and conditions of the renewal.

**23.6 Copies of policies; letters of undertaking**

Each Borrower shall ensure that the Approved Brokers provide the Lender with:

- (a) pro forma copies of all policies relating to the obligatory insurances which they are to effect or renew; and
- (b) a letter or letters or undertaking in a form required by the Lender and including undertakings by the Approved Brokers that:
  - (i) they will have endorsed on each policy, immediately upon issue, a loss payable clause and a notice of assignment complying with the provisions of Clause 23.4 (*Further protections for the Lender*);
  - (ii) they will hold such policies, and the benefit of such insurances, to the order of the Lender in accordance with such loss payable clause;
  - (iii) they will advise the Lender immediately of any material change to the terms of the obligatory insurances;
  - (iv) they will, if they have not received notice of renewal instructions from the relevant Borrower or its agents, notify the Lender not less than 14 days before the expiry of the obligatory insurances;
  - (v) if they receive instructions to renew the obligatory insurances, they will promptly notify the Lender of the terms of the instructions;
  - (vi) they will not set off against any sum recoverable in respect of a claim relating to the Ship owned by that Borrower under such obligatory insurances any premiums or other amounts due to them or any other person whether in respect of that Ship or otherwise, they waive any lien on the policies, or any sums received under them, which they might have in respect of such premiums or other amounts and they will not cancel such obligatory insurances by reason of non-payment of such premiums or other amounts; and
  - (vii) they will arrange for a separate policy to be issued in respect of the Ship owned by that Borrower forthwith upon being so requested by the Lender.

**23.7 Copies of certificates of entry**

Each Borrower shall ensure that any protection and indemnity and/or war risks associations in which the Ship owned by it is entered provide the Lender with:

- (a) a certified copy of the certificate of entry for that Ship;
- (b) a letter or letters of undertaking in such form as may be required by Lender; and

- (c) a certified copy of each certificate of financial responsibility for pollution by oil or other Environmentally Sensitive Material issued by the relevant certifying authority in relation to that Ship.

### **23.8 Deposit of original policies**

Each Borrower shall ensure that all policies relating to obligatory insurances effected by it are deposited with the Approved Brokers through which the insurances are effected or renewed.

### **23.9 Payment of premiums**

Each Borrower shall punctually pay all premiums or other sums payable in respect of the obligatory insurances effected by it and produce all relevant receipts when so required by the Lender.

### **23.10 Guarantees**

Each Borrower shall on a best endeavours basis request from a protection and indemnity association to consider issuing any guarantees as such may be required from time to time, in accordance with their respective rules and conditions, and shall further use reasonable endeavours to procure that such guarantees are issued as promptly as practically possible and remain in full force and effect.

### **23.11 Compliance with terms of insurances**

- (a) No Borrower shall do or omit to do (nor permit to be done or not to be done) any act or thing which would or might render any obligatory insurance invalid, void, voidable or unenforceable or render any sum payable under an obligatory insurance repayable in whole or in part.
- (b) Without limiting paragraph (a) above, each Borrower shall:
  - (i) take all necessary action and comply with all requirements which may from time to time be applicable to the obligatory insurances, and (without limiting the obligation contained in sub-paragraph (iii) of paragraph (b) of Clause 23.6 (*Copies of policies; letters of undertaking*)) ensure that the obligatory insurances are not made subject to any exclusions or qualifications to which the Lender has not given its prior approval;
  - (ii) not make any changes relating to the classification or classification society or manager or operator of the Ship owned by it unless approved by the underwriters of the obligatory insurances;
  - (iii) make (and promptly supply copies to the Lender of) all quarterly or other voyage declarations which may be required by the protection and indemnity risks association in which the Ship owned by it is entered to maintain cover for trading to the United States of America and Exclusive Economic Zone (as defined in the United States Oil Pollution Act 1990 or any other applicable legislation); and
  - (iv) not employ the Ship owned by it, nor allow it to be employed, otherwise than in conformity with the terms and conditions of the obligatory insurances, without first obtaining the consent of the insurers and complying with any requirements (as to extra premium or otherwise) which the insurers specify.

**23.12 Alteration to terms of insurances**

No Borrower shall make or agree to any alteration to the terms of any obligatory insurance or waive any right relating to any obligatory insurance.

**23.13 Settlement of claims**

Each Borrower shall:

- (a) not settle, compromise or abandon any claim under any obligatory insurance for Total Loss or for a Major Casualty; and
- (b) do all things necessary and provide all documents, evidence and information to enable the Lender to collect or recover any moneys which at any time become payable in respect of the obligatory insurances.

**23.14 Provision of copies of communications**

Each Borrower shall provide the Lender, upon the Lender's request, with copies of all written communications between that Borrower and:

- (a) the Approved Brokers;
- (b) the approved protection and indemnity and/or war risks associations; and
- (c) the approved insurance companies and/or underwriters,

which relate directly or indirectly to:

- (i) that Borrower's obligations relating to the obligatory insurances including, without limitation, all requisite declarations and payments of additional premiums or calls; and
- (ii) any credit arrangements made between that Borrower and any of the persons referred to in paragraphs (a) or (b) above relating wholly or partly to the effecting or maintenance of the obligatory insurances.

**23.15 Provision of information**

Each Borrower shall promptly provide the Lender (or any persons which it may designate) with any information which the Lender (or any such designated person) requests for the purpose of:

- (a) obtaining or preparing any report from an independent marine insurance broker as to the adequacy of the obligatory insurances effected or proposed to be effected; and/or
- (b) effecting, maintaining or renewing any such insurances as are referred to in Clause 23.16 (Mortgagee's interest and additional perils) or dealing with or considering any matters relating to any such insurances,

and the Borrowers shall, forthwith upon demand, indemnify the Lender in respect of all fees and other expenses incurred by or for the account of the Lender in connection with any such report as is referred to in paragraph (a) above.

### 23.16 Mortgagee's interest and additional perils

- (a) The Lender shall be entitled from time to time to effect, maintain and renew a mortgagee's interest marine insurance and a mortgagee's interest additional perils insurance in such amounts (but not less than 120 per cent. of the Loan in respect of mortgagee's interest marine insurance and 120 per cent. of the Loan in respect of mortgagee's interest additional perils insurance), on such terms, through such insurers and generally in such manner as the Lender may from time to time consider appropriate.
- (b) The Borrowers shall within 30 days of demand fully indemnify the Lender once annually during the Security Period in respect of all premiums and other expenses which are incurred in connection with or with a view to effecting, maintaining or renewing any insurance referred to in paragraph (a) above or dealing with, or considering, any matter arising out of any such insurance.

## 24 SHIP UNDERTAKINGS

### 24.1 General

The undertakings in this Clause 24 (*Ship Undertakings*) remain in force on and from the date of this Agreement and throughout the rest of the Security Period except as the Lender may otherwise permit in writing (and in the case of Clauses 24.2 (*General*), 24.3 (*Repair and classification*), 24.5 (*Modifications*), 24.6 (*Removal and installation of parts*) and 24.16 (*Restrictions on chartering, appointment of managers etc.*) such permission not to be unreasonably withheld or delayed).

### 24.2 Ships' names and registration

Each Borrower shall, in respect of the Ship owned by it:

- (a) keep that Ship registered in its name under the Approved Flag from time to time at its port of registration;
- (b) not do or allow to be done anything as a result of which such registration might be suspended, cancelled or imperilled;
- (c) not enter into any dual flagging arrangement in respect of that Ship; and
- (d) not change the name of that Ship,

**provided that** any change of flag of a Ship shall be subject to:

- (i) that Ship remaining subject to Security securing the Secured Liabilities created by a first priority or preferred ship mortgage on that Ship and, if appropriate, a Deed of Covenant collateral to that mortgage (or equivalent first priority Security) on substantially the same terms as the Mortgage on that Ship and, if applicable, the related Deed of Covenant and on such other terms and in such other form as the Lender shall approve or require; and
- (ii) the execution of such other documentation amending and supplementing the Finance Documents as the Lender shall approve or require.

### **24.3 Repair and classification**

Each Borrower shall keep the Ship owned by it in a good and safe condition and state of repair:

- (a) consistent with first class ship ownership and management practice; and
- (b) so as to maintain the Approved Classification free of overdue recommendations and conditions.

### **24.4 Classification society undertaking**

If required by the Lender in writing each Borrower shall, in respect of the Ship owned by it, instruct the relevant Approved Classification Society (and procure that the Approved Classification Society undertakes with the Lender):

- (a) to send to the Lender, following receipt of a written request from the Lender, certified true copies of all original class records held by the Approved Classification Society in relation to that Ship;
- (b) to allow the Lender (or its agents), at any time and from time to time, to inspect the original class and related records of that Borrower and that Ship at the offices of the Approved Classification Society and to take copies of them;
- (c) to notify the Lender immediately in writing if the Approved Classification Society:
  - (i) receives notification from that Borrower or any person that that Ship's Approved Classification Society is to be changed; or
  - (ii) becomes aware of any facts or matters which may result in or have resulted in a change, suspension, discontinuance, withdrawal or expiry of that Ship's class under the rules or terms and conditions of that Borrower or that Ship's membership of the Approved Classification Society;
- (d) following receipt of a written request from the Lender:
  - (i) to confirm that that Borrower is not in default of any of its contractual obligations or liabilities to the Approved Classification Society, including confirmation that it has paid in full all fees or other charges due and payable to the Approved Classification Society; or
  - (ii) to confirm that that Borrower is in default of any of its contractual obligations or liabilities to the Approved Classification Society, to specify to the Lender in reasonable detail the facts and circumstances of such default, the consequences of such default, and any remedy period agreed or allowed by the Approved Classification Society.

### **24.5 Modifications**

No Borrower shall make any modification or repairs to, or replacement of, any Ship or equipment installed on it which would or might materially and adversely alter the structure, type or performance characteristics of that Ship or materially reduce its value.

#### **24.6 Removal and installation of parts**

- (a) Subject to paragraph (b) below, no Borrower shall remove any material part of the Ship owned by it, or any item of equipment installed on that Ship unless:
- (i) the part or item so removed is forthwith replaced by a suitable part or item which is in the same condition as or better condition than the part or item removed;
  - (ii) the replacement part or item is free from any Security in favour of any person other than the Lender; and
  - (iii) the replacement part or item becomes, on installation on that Ship, the property of that Borrower and subject to the security constituted by the Mortgage on that Ship and, if applicable, the related Deed of Covenant.
- (b) A Borrower may install equipment owned by a third party if the equipment can be removed without any risk of damage to the Ship owned by that Borrower.

#### **24.7 Surveys**

Each Borrower shall submit the Ship owned by it regularly to all periodic or other surveys which may be required for classification purposes and, if so required by Lender, provide the Lender, with copies of all survey reports.

#### **24.8 Inspection**

- (a) Each Borrower shall permit the Lender (acting through surveyors or other persons appointed by it for that purpose) to board the Ship owned by it at all reasonable times and on a best endeavour basis to not interfere with the Ship's trading schedule, to inspect its condition or to satisfy themselves about proposed or executed repairs and shall afford all proper facilities for such inspections.
- (b) Unless an Event of Default has occurred, the Borrowers shall bear the costs of one inspection per year under this Clause 24.8 (Inspection).

#### **24.9 Prevention of and release from arrest**

- (a) Each Borrower shall, in respect of the Ship owned by it, promptly discharge:
- (i) all liabilities which give or may give rise to maritime or possessory liens on or claims enforceable against that Ship, its Earnings or its Insurances;
  - (ii) all Taxes, dues and other amounts charged in respect of that Ship, its Earnings or its Insurances; and
  - (iii) all other outgoings whatsoever in respect of that Ship, its Earnings or its Insurances.
- (b) Each Borrower shall, immediately upon receiving notice of the arrest of the Ship owned by it or of its detention in exercise or purported exercise of any lien or claim, take all steps necessary to procure its release by providing bail or otherwise as the circumstances may require.



#### 24.10 Compliance with laws etc.

Each Borrower shall:

- (a) comply, or procure compliance with all laws or regulations:
  - (i) relating to its business generally; and
  - (ii) relating to the Ship owned by it, its ownership, employment, operation, management and registration, including, but not limited to, the ISM Code, the ISPS Code, all Environmental Laws, all Sanctions and the laws of the Approved Flag;
- (b) obtain, comply with and do all that is necessary to maintain in full force and effect any Environmental Approvals; and
- (c) without limiting paragraph (a) above, not employ the Ship owned by it nor allow its employment, operation or management in any manner contrary to any law or regulation including but not limited to the ISM Code, the ISPS Code, all Environmental Laws and Sanctions (or which would be contrary to Sanctions if Sanctions were binding on each Transaction Obligor or each Approved Manager).

#### 24.11 ISPS Code

Without limiting paragraph (a) of Clause 24.10 (*Compliance with laws etc.*), each Borrower shall:

- (a) procure that the Ship owned by it and the company responsible for that Ship's compliance with the ISPS Code comply with the ISPS Code; and
- (b) maintain an ISSC for that Ship; and
- (c) notify the Lender immediately in writing of any actual or threatened withdrawal, suspension, cancellation or modification of the ISSC.

#### 24.12 Sanctions and Ship trading

Without limiting Clause 24.10 (*Compliance with laws etc.*), each Borrower shall procure:

- (a) that the Ship owned by it shall not be used by or for the benefit of a Prohibited Person;
- (b) that the Ship owned by it shall not be used in trading in any manner contrary to Sanctions (including without limitation, entering or trading in a zone situated within a country, area or region that is subject to Sanctions) (or which could be contrary to Sanctions if Sanctions were binding on each Transaction Obligor or each Approved Manager) **Provided that** if an Emergency Event occurs and for so long as that Emergency Event continues, the relevant Ship may enter into such a zone, area or region that is subject to Sanctions only for the purpose of avoiding or dealing with such Emergency Event **Provided further that** the Obligors shall use best endeavours to ensure that the entry of the Ship into such zone, area or region shall not affect the validity of the obligatory insurances and such entry into such zone, area or region shall be promptly notified to the Ship's insurers, as may be required, and the Lender and shall further provide the Lender with any information which it requests. For the avoidance of doubt,

such Ship, for so long as it remains at that zone or area, shall not, in any way, trade within that country, area or region which is subject to Sanctions;

- (c) and the Borrower owning that Ship shall ensure that the Ship departs such zone or area immediately after the Emergency Event is no longer relevant to the Ship;
- (d) that such Ship shall not be traded in any manner which would trigger the operation of any sanctions limitation or exclusion clause (or similar) in the Insurances; and
- (e) (and for the purposes of this sub-paragraph each Borrower shall use its best endeavours to procure) that each charterparty in respect of that Ship shall contain, for the benefit of that Borrower, language which gives effect to the provisions of paragraph (c) of Clause 24.10 (Compliance with laws etc.) as regards Sanctions and of this Clause 24.12 (Sanctions and Ship trading) and which permits refusal of employment or voyage orders if compliance would result in a breach of Sanctions (or which would result in a breach of Sanctions, if Sanctions were binding on each Transaction Obligor or each Approved Manager).

#### **24.13 Trading in war zones or excluded areas**

In the event of hostilities in any part of the world (whether war is declared or not), no Borrower shall cause or permit the Ship owned by it to enter or trade to any zone which is declared a war zone by any government or by that Ship's war risks insurers or which is otherwise excluded from the scope of the obligatory insurances unless:

- (a) the prior written consent of the underwriters of that Ship has been given; and
- (b) that Borrower has (at its expense) effected any special, additional or modified insurance cover (to the extent not covered by such Ship's war risks insurances) which the underwriters of that Ship may require.

#### **24.14 Provision of information**

Without prejudice to Clause 20.4 (*Information: miscellaneous*) each Borrower shall, in respect of the Ship owned by it, promptly provide the Lender with any information which it requests regarding:

- (a) that Ship, its employment, position and engagements;
- (b) the Earnings and payments and amounts due to its master and crew;
- (c) any expenditure incurred, or likely to be incurred, in connection with the operation, maintenance or repair of that Ship and any payments made by it in respect of that Ship;
- (d) any towages and salvages; and
- (e) its compliance, each Approved Manager's compliance and the compliance of that Ship with the ISM Code and the ISPS Code,

and, upon the Lender's request, promptly provide copies of any current Charter relating to that Ship, of any current guarantee of any such Charter, the Ship's Safety Management Certificate and any relevant Document of Compliance.

#### **24.15 Notification of certain events**

Each Borrower shall, in respect of the Ship owned by it, immediately and, in the case of paragraph (a) below, once the Borrowers become aware of such casualty, notify the Lender by fax, confirmed forthwith by letter, of:

- (a) any casualty to that Ship which is or is reasonably likely to be or to become a Major Casualty;
- (b) any occurrence as a result of which that Ship has become or is, by the passing of time or otherwise, likely to become a Total Loss;
- (c) any requisition of that Ship for hire;
- (d) any overdue requirement or recommendation made in relation to that Ship by any insurer or classification society or by any competent authority;
- (e) any arrest or detention of that Ship, other than a detention which does not exceed one day, or any exercise or purported exercise of any lien on that Ship or its Earnings;
- (f) any intended dry docking of that Ship (for the purpose or reason of, including but not limited to, being traded in spot and off hire);
- (g) any Environmental Claim made against that Borrower or in connection with that Ship, or any Environmental Incident;
- (h) any claim for breach of the ISM Code or the ISPS Code being made against that Borrower, an Approved Manager or otherwise in connection with that Ship;
- (i) if the Ship owned by it (i) enters into a Permitted Charter for spot trading or (ii) is off hire, in each case, for a duration of more than 30 consecutive days at any relevant time during the Security Period;
- (j) any other matter, event or incident, actual or threatened, the effect of which will or could lead to the ISM Code or the ISPS Code not being complied with; or
- (k) and each Borrower shall keep the Lender advised in writing on a regular basis and in such detail as the Lender shall require as to that Borrower's, any such Approved Manager's or any other person's response to any of those events or matters.

#### **24.16 Restrictions on chartering, appointment of managers etc.**

No Borrower shall, in relation to the Ship owned by it:

- (a) let that Ship:
  - (i) on demise charter for any period; or
  - (ii) on spot charter or off-hire for a period of more than 90 consecutive days at any relevant time during the Security Period;
- (b) enter into any time, voyage or consecutive voyage charter in respect of that Ship other than a Permitted Charter;

- (c) materially amend, supplement or terminate a Management Agreement (material amendments shall include, without limitation, any amendments to the management fees resulting in an increase to such fees in excess of 5% per annum, duration of the management agreement or terms permitting the termination of such Management Agreement);
- (d) appoint a manager of that Ship other than the Approved Commercial Manager and the Approved Technical Manager or agree to any alteration to the terms of an Approved Manager's appointment;
- (e) de activate or lay up that Ship; or
- (f) put that Ship into the possession of any person for the purpose of work being done upon it in an amount exceeding or likely to exceed \$600,000 (or the equivalent in any other currency) unless that person has first given to the Lender and in terms satisfactory to it a written undertaking not to exercise any lien on that Ship or its Earnings for the cost of such work or for any other reason.

#### **24.17 Notice of Mortgage**

Each Borrower shall keep the relevant Mortgage registered against the Ship owned by it as a valid first preferred mortgage, carry on board that Ship a certified copy of the relevant Mortgage and place and maintain in a conspicuous place in the navigation room and the master's cabin of that Ship a framed printed notice stating that that Ship is mortgaged by that Borrower to the Lender.

#### **24.18 Sharing of Earnings**

No Borrower shall enter into any agreement or arrangement for the sharing of any Earnings other than for the purposes of this Agreement.

#### **24.19 Charterparty Assignment**

If a Borrower enters into any Assignable Charter, that Borrower shall promptly after the date of entry into of such Assignable Charter:

- (a) if such Assignable Charter is a time charterparty, enter into a Charterparty Assignment and the assignment contemplated thereunder shall be notified to the relevant charterer and any charter guarantor, and the relevant Borrower shall use its best efforts to procure that such charterer and such charter guarantor acknowledges such assignment in accordance with the terms of such Charterparty Assignment; and
- (b) if such Assignable Charter is a bareboat charter, enter into a Charterparty Assignment and the assignment contemplated thereunder shall be notified to the relevant charterer and any charter guarantor, and the relevant Borrower shall use its best efforts to procure that the relevant charterer or any charter guarantor acknowledges such assignment in accordance with the terms of such Charterparty Assignment, and the relevant Borrower shall procure that the relevant charterer executes in favour of the Lender an assignment of (*inter alia*) all its rights, title and interest in and to the Insurances in respect of the Ship effected either by that Borrower or by the relevant charterer and a customary letter of undertaking in favour of the Lender whereby (*inter alia*) the interests of that charterer under the Charter are subordinated to the interests of the Lender under the Finance Documents,

and shall additionally deliver to the Lender such other documents equivalent to those referred to at paragraphs 1.1, 1.2, 1.3, 1.4, 4, 5.2 and 5.3 of Part A and paragraph 2.5 of Part B of Schedule 2 (*Conditions Precedent*) as the Lender may require from that Borrower in connection with such Charterparty Assignment.

#### **24.20 Additional Charter Undertaking**

Each Borrower shall procure that the Ship owned by it is subject to a Permitted Charter with fixed duration of at least 1 month (excluding any optional extensions).

#### **24.21 Notification of compliance**

Each Borrower shall promptly provide the Lender, upon the Lender's written request, from time to time with evidence (in such form as the Lender requires) that it is complying with this Clause 24 (*Ship Undertakings*).

### **25 SECURITY COVER**

#### **25.1 Minimum required security cover**

Clause 25.2 (*Provision of additional security; prepayment*) applies if the Lender notifies the Borrowers that the Security Cover Ratio is below the applicable Required Security Cover Ratio.

#### **25.2 Provision of additional security; prepayment**

- (a) If the Lender serves a notice on the Borrowers under Clause 25.1 (Minimum required security cover), the Borrowers shall, on or before the date falling one Month after the date (the "Prepayment Date") on which the Lender's notice is served, prepay such part of the Loan as shall eliminate the shortfall.
- (b) The Borrowers may, instead of making a prepayment as described in paragraph (a) above, provide, or ensure that a third party has provided, additional security which, in the opinion of the Lender:
  - (i) has a net realisable value at least equal to the shortfall; and
  - (ii) is documented in such terms as the Lender may approve or require,

before the Prepayment Date; and conditional upon such security being provided in such manner, it shall satisfy such prepayment obligation.

#### **25.3 Value of additional vessel security**

The net realisable value of any additional security which is provided under Clause 25.2 (*Provision of additional security; prepayment*) and which consists of Security over a vessel shall be the Market Value of the vessel concerned.

#### **25.4 Valuations binding**

Any valuation under this Clause 25 (*Security Cover*) shall be binding and conclusive as regards each Borrower.

## **25.5 Provision of information**

- (a) Each Borrower shall promptly provide the Lender and any Approved Valuer acting under this Clause 25 (Security Cover) with any information which the Lender or the Approved Valuer may request for the purposes of the valuation.
- (b) If a Borrower fails to provide the information referred to in paragraph (a) above by the date specified in the request, the valuation may be made on any basis and assumptions which the Approved Valuer or the Lender considers prudent.

## **25.6 Prepayment mechanism**

Any prepayment pursuant to Clause 25.2 (*Provision of additional security; prepayment*) shall be made in accordance with the relevant provisions of Clause 7 (*Prepayment and Cancellation*) and shall be treated as a voluntary prepayment pursuant to Clause 7.4 (*Voluntary prepayment of Loan*).

## **25.7 Provision of valuations**

- (a) The Lender shall obtain two or, if the higher of the two valuations shows a value that is 15 per cent. higher than the lower of the two valuations, three valuations of each Ship and any other vessel over which additional Security has been created in accordance with Clause 25.2 (*Provision of additional security; prepayment*), each from:
  - (i) an Approved Valuer one selected by the Lender and one by the Borrowers; and
  - (ii) where an Approved Valuer has failed to provide any such valuation within reasonable amount of time, any other Approved Valuer, failing which, any other firm or firms of independent sale and purchase shipbrokers mutually agreed between the Borrowers and the Lender,

to enable the Lender to determine the Market Value of that Ship or any other vessel (over which additional Security has been created pursuant to Clause 25.2 (*Provision of additional security; prepayment*)).

- (b) The valuations referred to in this Clause 25.7 (*Provision of valuations*) are to be obtained at any time requested by the Lender but not more than once per each calendar year provided that if an Event of Default occurs which is continuing, the Lender may request such valuations at any time in its absolute discretion.
- (c) Without prejudice to the generality of the obligations of the Obligors under Clause 16 (Costs and Expenses), the amount of the fees and expenses of the Approved Valuers or experts instructed by the Lender under paragraph (b) of this Clause 25.7 (*Provision of valuations*), shall be paid, or reimbursed to the Lender, by the Borrowers on demand (provided that the Borrowers shall not be liable for the amount of fees and expenses of the Approved Valuers or experts more than once in each calendar year provided no Event of Default has occurred which is continuing in which case such valuations shall be at Borrowers' cost).

## **26 ACCOUNTS AND APPLICATION OF EARNINGS**

### **26.1 Accounts**

No Borrower may, without the prior consent of the Lender, maintain any bank account other than its Earnings Account.

### **26.2 Payment of Earnings**

Each Borrower shall ensure that,

- (a) subject only to the provisions of the General Assignment to which it is a party, all the Earnings in respect of the Ship owned by it are paid in to its Earnings Account;
- (b) Subject to no Event of Default having occurred and being continuing, all amounts standing to the credit of the Earning Accounts shall be applied (or, as the context may require in respect of items (ii) and (iii), available for application) as follows:
  - (i) **first**, in or towards payment of any amounts then due and payable under this Agreement, except for principal and interest;
  - (ii) **secondly**, on the last day of each Interest Period, the amount of interest then due on that date;
  - (iii) **thirdly**, on each Repayment Date, the amount of the Repayment Instalment then due on the Repayment Date;
  - (iv) **fourthly**, in or towards payment of the costs and expenses of insuring, repairing, operating and maintaining a Ship; and
  - (v) **fifthly**, any surplus shall be freely available to the relevant Borrower subject to the provisions of Clause 22.19 (*Dividends*).

### **26.3 Location of Accounts**

Each Borrower shall promptly:

- (a) comply with any requirement of the Lender as to the location or relocation of its Earnings Account; and
- (b) execute any documents which the Lender specifies to create or maintain in favour of the Lender Security over (and/or rights of set-off, consolidation or other rights in relation to) its Earnings Accounts.

## **27 EVENTS OF DEFAULT**

### **27.1 General**

Each of the events or circumstances set out in this Clause 27 (*Events of Default*) is an Event of Default except for Clause 27.18 (*Acceleration*) and Clause 27.20 (*Enforcement of security*).

## **27.2 Non-payment**

A Transaction Obligor does not pay on the due date any amount payable pursuant to a Finance Document at the place and in the currency in which it is expressed to be payable unless its failure to pay is caused by an administrative or technical error or a Disruption Event, but the payment is made within 3 Business Days of its due date or, if earlier, the date when the Disruption Event ceased to be continuing or the error was rectified.

## **27.3 Specific obligations**

A breach occurs of Clause 4.4 (*Waiver of conditions precedent*), Clause 20 (*Financial Covenants*), Clause 22.6 (*Anti-corruption law*), Clause 22.11 (*Title*), Clause 22.12 (*Negative pledge*), Clause 22.21 (*No substantial liabilities*), Clause 22.22 (*Unlawfulness, invalidity and ranking; Security imperilled*), Clause 23.2 (*Maintenance of obligatory insurances*), Clause 23.3 (*Terms of obligatory insurances*), Clause 23.5 (*Renewal of obligatory insurances*) or, save to the extent such breach is a failure to pay and therefore subject to Clause 27.2 (*Non-payment*), Clause 25 (*Security Cover*).

## **27.4 Other obligations**

A Transaction Obligor does not comply with any provision of the Finance Documents (other than those referred to in Clause 27.2 (*Non-payment*) and Clause 27.3 (*Specific obligations*)) or, in the case of an Approved Manager, with any provision of the Finance Documents to which it is party.

## **27.5 Misrepresentation**

Any representation or statement made or deemed to be made by a Transaction Obligor in the Finance Documents (or in the case of an Approved Manager in the Finance Documents to which it is a party) or any other document delivered by or on behalf of any Transaction Obligor or any Approved Manager under or in connection with any Finance Document is or proves to have been incorrect or misleading when made or deemed to be made unless such misrepresentation or statement is, or is deemed to have been, unintentionally made and is rectified within 5 Business Days of the making of such representation or statement.

## **27.6 Cross default**

- (a) Any Financial Indebtedness of any Obligor is not paid when due nor within any originally applicable grace period.
- (b) Any Financial Indebtedness of any Obligor is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).
- (c) Any commitment for any Financial Indebtedness of the Obligors is cancelled or suspended by a creditor of a Obligor (or any of them) as a result of an event of default (however described) unless, in the case of the Parent Guarantor, the Lender is satisfied, in its sole discretion, that such cancellation or suspension will not have any negative impact on the ability of the Parent Guarantor to satisfy its debts as they fall due.
- (d) Any creditor of any Obligor becomes entitled to declare any Financial Indebtedness due and payable prior to its specified maturity as a result of an event of default (however described).



- (e) No Event of Default will occur under this Clause 27.6 (Cross Default) in respect of a person other than a Borrower if the aggregate amount of Financial Indebtedness falling within paragraphs (a) to (d) above, is less than \$5,000,000 (or its equivalent in any other currency).

## 27.7 Insolvency

- (a) A Transaction Obligor:
  - (i) is unable or admits inability to pay its debts as they fall due;
  - (ii) is deemed to, or is declared to, be unable to pay its debts under applicable law; or
  - (iii) suspends or threatens to suspend making payments on any of its debts.

**Provided however that** should a Transaction Obligor, for any reason, including without limitation, any actual or anticipated financial difficulties, commences negotiations with one or more of its creditors (including the Lender in its capacity as such), with prior written notice to the Lender, with a view to rescheduling, deferring, re-organizing or suspending any of its indebtedness, the negotiations themselves or the entering, as a result of such negotiations, into any agreement or contract with one or more of its creditors (including the Lender) no Event of Default will be deemed to have occurred or be continuing under the provisions of this Agreement.

- (b) A moratorium is declared (and, if applicable, registered with appropriate authorities) in respect of any indebtedness of any Transaction Obligor. If a moratorium occurs, the ending of the moratorium will not remedy any Event of Default caused by that moratorium.

## 27.8 Insolvency proceedings

- (a) Any corporate action, legal proceedings or other similar legal procedure or similar legal step is taken in relation to:
  - (i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any Transaction Obligor;
  - (ii) a composition, compromise, assignment or arrangement with any creditor of any Transaction Obligor;
  - (iii) the appointment of a liquidator, receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of any Transaction Obligor or any of its assets; or
  - (iv) enforcement of any Security over any assets of any Transaction Obligor,or any analogous procedure or step is taken in any jurisdiction.
- (b) Paragraph (a) above shall not apply to any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within 30 days of commencement.

## **27.9 Creditors' process**

Any expropriation, attachment, sequestration, distress or execution (or any analogous process in any jurisdiction) affects any asset or assets of a Transaction Obligor (other than an arrest or detention of a Ship referred to in Clause 27.13 (*Arrest*) and is not discharged within 25 days (or such longer period the Lender may reasonably agree to)).

## **27.10 Unlawfulness, invalidity and ranking**

- (a) It is or becomes unlawful for a Transaction Obligor to perform any of its obligations under the Finance Documents (or, in the case of any Approved Manager, under the Finance Documents to which it is party).
- (b) Any obligation of a Transaction Obligor under the Finance Documents is not or ceases to be legal, valid, binding or enforceable (or, in the case of any Approved Manager, under the Finance Documents to which it is party).
- (c) Any Finance Document ceases to be in full force and effect or to be continuing or is or purports to be determined or any Transaction Security is alleged by a party to it (other than the Lender) to be ineffective.
- (d) Any Transaction Security proves to have ranked after, or loses its priority to, any other Security.

## **27.11 Security imperilled**

Any Security created or intended to be created by a Finance Document is in any way imperilled or in jeopardy.

## **27.12 Cessation of business**

- (a) Any Transaction Obligor or any Approved Manager suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or a material part of its business and in the case of an Approved Manager or a Transaction Obligor other than an Obligor such cessation is reasonably likely to have has a Material Adverse Effect.
- (b) No Event of Default will be triggered under this Clause 27.12 (Cessation of business), if any such suspension or cessation occurs in relation to an Approved Manager and the Obligors procure that within 14 days of such suspension or cessation:
  - (i) a replacement Approved Manager acceptable to the Lender is appointed in relation to the commercial or, as the case may be, the technical management in relation to each Ship; and
  - (ii) the replacement Approved Manager has granted, upon the Lender's request, a Manager's Undertaking in favour of the Lender in respect of each Ship and such other documents equivalent to those referred to at paragraphs 1.1, 1.2, 1.3, 1.4, 4, 5.2 and 5.3 of Part A and paragraph 2.3 of Part B of Schedule 2 (*Conditions Precedent*) as the Lender may require from that Approved Manager in connection with each Ship.

### **27.13 Arrest**

Any arrest of a Ship or its detention in the exercise or the purported exercise of any lien or claim unless it is redelivered to the full control of the relevant Borrower within 30 days of such arrest or detention (or, at the Borrower's request, any such longer period that the Lender may consent to).

### **27.14 Expropriation**

- (a) The authority or ability of any Transaction Obligor or an Approved Manager to conduct its business is limited or wholly or substantially curtailed by any seizure, expropriation, nationalisation, intervention, restriction or other action by or on behalf of any governmental, regulatory or other authority or other person in relation to any Transaction Obligor or any Approved Manager or any of its assets other than:
- (i) an arrest or detention of a Ship referred to in Clause 27.13 (*Arrest*); or
  - (ii) any Requisition.
- (b) No Event of Default will be triggered under this Clause 27.14 (*Expropriation*), if any such seizure, expropriation, nationalisation, intervention, restriction or other action occurs in relation to an Approved Manager and the Obligors procure that within 14 days of such seizure, expropriation, nationalisation, intervention, restriction or other action:
- (i) a replacement Approved Manager acceptable to the Lender is appointed in relation to the commercial or, as the case may be, the technical management in relation to each Ship; and
  - (ii) the replacement Approved Manager has granted, upon the Lender's request, a Manager's Undertaking in favour of the Lender in respect of each Ship and such other documents equivalent to those referred to at paragraphs 1.1, 1.2, 1.3, 1.4, 4, 5.2 and 5.3 of Part A and paragraph 2.3 of Part B of Schedule 2 (*Conditions Precedent*) as the Lender may require from that Approved Manager in connection with each Ship.

### **27.15 Repudiation and rescission of agreements**

A Transaction Obligor or any Approved Manager rescinds or purports to rescind or repudiates or purports to repudiate a Transaction Document (other than an Assignable Charter) to which it is a party or any of the Transaction Security or evidences an intention to rescind or repudiate a Transaction Document (other than an Assignable Charter) or any Transaction Security.

### **27.16 Litigation**

Any litigation, arbitration or administrative proceedings or investigations of, or before, any court, arbitral body or agency are started or threatened, or any judgment or order of a court, arbitral body or agency is made, in relation to any of the Transaction Documents or the transactions contemplated in any of the Transaction Documents which has a Material Adverse Effect.

### **27.17 Material adverse change**

Any event or circumstance occurs which has a Material Adverse Effect.

**27.18 Acceleration**

On and at any time after the occurrence of an Event of Default which is continuing the Lender may by notice to the Borrowers:

- (a) cancel the Commitment, whereupon it shall immediately be cancelled;
- (b) declare that all or part of the Loan, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents be immediately due and payable, whereupon it shall become immediately due and payable; and/or
- (c) declare that all or part of the Loan be payable on demand, whereupon it shall immediately become payable on demand by the Lender; and/or

and the Lender may serve notices under sub-paragraph (a), (b) and (c) above simultaneously or on different dates and the Lender may take any action referred to in Clause 27.20 (*Enforcement of security*) if no such notice is served or simultaneously with or at any time after the service of any of such notice.

**27.19 Financial Statements**

The financial statements delivered to the Lender pursuant to Clause 20.2 (*Financial statements*) are materially qualified in the reasonable opinion of both the Lender and the Parent Guarantor's auditors.

**27.20 Enforcement of security**

On and at any time after the occurrence of an Event of Default the Lender may, take any action which, as a result of the Event of Default or any notice served under Clause 27.18 (*Acceleration*), the Lender is entitled to take under any Finance Document or any applicable law or regulation.

## SECTION 9

### CHANGES TO PARTIES

#### 28 CHANGES TO THE LENDER

##### 28.1 Assignment by the Lender

Subject to this Clause 28 (*Changes to the Lender*), the Lender (the "**Existing Lender**") may assign any of its rights and obligations under the Finance Documents to another bank or financial institution or to a trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets (the "**New Lender**").

##### 28.2 Conditions of assignment

- (a) The written consent of the Borrowers is required for an assignment by the Existing Lender, unless the assignment is:
- (i) to an Affiliate of the Existing Lender;
  - (ii) if the Existing Lender is a fund, to a fund which is a Related Fund; or
  - (iii) made at a time when an Event of Default is continuing.
- (b) The written consent of the Borrowers to an assignment must not be unreasonably withheld or delayed. The Borrowers will be deemed to have given their consent five Business Days after the Lender has requested it unless consent is expressly refused by the Borrowers within that time.
- (c) If:
- (i) the Existing Lender assigns any of its rights or obligations under the Finance Documents or changes its Facility Office; and
  - (ii) as a result of circumstances existing at the date the assignment or change occurs, a Transaction Obligor would be obliged to make a payment to the New Lender or the Existing Lender acting through its new Facility Office under Clause 12 (*Tax Gross Up and Indemnities*) or under that clause as incorporated by reference or in full in any other Finance Document or Clause 13 (*Increased Costs*),

then the New Lender or the Existing Lender acting through its new Facility Office is only entitled to receive payment under those Clauses to the same extent as the Existing Lender, would have been if the assignment, or change had not occurred.

##### 28.3 Security over Lender's rights

In addition to the other rights provided to the Lender under this Clause 28 (*Changes to the Lender*), the Lender may without consulting with or obtaining consent from any Transaction Obligor or any Approved Manager, at any time charge, assign or otherwise create Security in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of the Lender including, without limitation:

- (a) any charge, assignment or other Security to secure obligations to a federal reserve or central bank; and
  - (b) if the Lender is a fund, any charge, assignment or other Security granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities,
- except that no such charge, assignment or Security shall:
- (i) release the Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or Security for the Lender as a party to any of the Finance Documents; or
  - (ii) require any payments to be made by a Transaction Obligor other than or in excess of, or grant to any person any more extensive rights than, those required to be made or granted to the relevant Lender under the Finance Documents.

## **29 CHANGES TO THE TRANSACTION OBLIGORS**

### **29.1 Assignment or transfer by Transaction Obligors**

No Transaction Obligor nor any Approved Manager may assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

### **29.2 Additional Subordinated Creditors**

- (a) The Borrower may request that any person becomes a Subordinated Creditor, with the prior approval of the Lender, by delivering to the Lender:
  - (i) a duly executed Subordination Agreement;
  - (ii) a duly executed Subordinated Debt Security; and
  - (iii) such constitutional documents, corporate authorisations and other documents and matters as the Lender may reasonably require, in form and substance satisfactory to the Lender, to verify that the person's obligations are legally binding, valid and enforceable and to satisfy any applicable legal and regulatory requirements.
  - (iv) A person referred to in paragraph (a) above will become a Subordinated Creditor on the date the Lender enters into the Subordination Agreement and the Subordinated Debt Security delivered under paragraph (a) above.

## SECTION 10

### ADMINISTRATION

#### 30 PAYMENT MECHANICS

##### 30.1 Payments to the Lender

- (a) On each date on which a Transaction Obligor or a Lender is required to make a payment under a Finance Document, that Transaction Obligor or Lender shall make an amount equal to such payment available to the Lender (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Lender as being customary at the time for settlement of transactions in the relevant currency in the place of payment.
- (b) Payment shall be made to such account in the principal financial centre of the country of that currency (or, in relation to euro, in a principal financial centre in such Participating Member State or London, as specified by the Lender) and with such bank as the Lender, in each case, specifies.

##### 30.2 Application of receipts; partial payments

- (a) If the Lender receives a payment that is insufficient to discharge all the amounts then due and payable by a Transaction Obligor under the Finance Documents, the Lender shall apply that payment towards the obligations of that Transaction Obligor under the Finance Documents in any manner it may decide.
- (b) Paragraphs (a) above will override any appropriation made by a Transaction Obligor.

##### 30.3 No set-off by Transaction Obligors

All payments to be made by a Transaction Obligor under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

##### 30.4 Business Days

- (a) Any payment under the Finance Documents which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- (b) During any extension of the due date for payment of any principal or an Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

##### 30.5 Currency of account

- (a) Subject to paragraphs (b) and (c) below, dollars is the currency of account and payment for any sum due from a Transaction Obligor under any Finance Document.
- (b) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.

- (c) Any amount expressed to be payable in a currency other than dollars shall be paid in that other currency.

### **30.6 Change of currency**

- (a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:
  - (i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Lender (after consultation with the Borrowers); and
  - (ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Lender (acting reasonably).
- (b) If a change in any currency of a country occurs, this Agreement will, to the extent the Lender (acting reasonably and after consultation with the Borrowers) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the Relevant Interbank Market and otherwise to reflect the change in currency.

### **30.7 Currency Conversion**

The obligations of any Transaction Obligor to pay in the due currency shall only be satisfied to the extent of the amount of the due currency purchased after deducting the costs of conversion.

### **30.8 Disruption to Payment Systems etc.**

If either the Lender determines (in its discretion) that a Disruption Event has occurred or the Lender is notified by a Borrower that a Disruption Event has occurred:

- (a) the Lender may, and shall if requested to do so by a Borrower, consult with the Borrowers with a view to agreeing with the Borrowers such changes to the operation or administration of the Facility as the Lender may deem necessary in the circumstances;
- (b) the Lender shall not be obliged to consult with the Borrowers in relation to any changes mentioned in paragraph (a) above if, in its opinion, it is not practicable to do so in the circumstances and, in any event, shall have no obligation to agree to such changes;
- (c) any such changes agreed upon by the Lender and the Borrowers shall (whether or not it is finally determined that a Disruption Event has occurred) be binding upon the Parties and any Transaction Obligors as an amendment to (or, as the case may be, waiver of) the terms of the Finance Documents;
- (d) the Lender shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever (including, without limitation for negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Lender) arising as a result of its taking, or failing to take, any actions pursuant to or in connection with this Clause 30.8 (Disruption to Payment Systems etc.); and



### **31 SET-OFF**

The Lender may set off any matured obligation due from a Transaction Obligor under the Finance Documents (to the extent beneficially owned by the Lender) against any matured obligation owed by the Lender to that Transaction Obligor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Lender may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

### **32 CONDUCT OF BUSINESS BY THE LENDER**

No provision if this Agreement will:

- (a) interfere with the right of the Lender to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;
- (b) oblige the Lender to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or
- (c) oblige the Lender to disclose any information relating to its affairs (tax or otherwise) or any computation in respect of Tax.

### **33 NOTICES**

#### **33.1 Communications in writing**

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by fax or letter.

#### **33.2 Addresses**

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents are:

- (a) in the case of the Borrowers, that specified in Schedule 1 (The Parties);
- (b) in the case of any other Obligor or the Lender, that specified in Schedule 1 (The Parties) or, if it becomes a Party after the date of this Agreement, that notified in writing to the Lender on or before the date on which it becomes a Party;

or any substitute address, fax number or department or officer as the Party may notify to the Lender (or the Lender may notify to the other Parties, if a change is made by the Lender) by not less than five Business Days' notice.

#### **33.3 Delivery**

- (a) Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective:
  - (i) if by way of fax, when received in legible form; or

- (ii) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under Clause 33.2 (*Addresses*), if addressed to that department or officer.

- (b) Any communication or document to be made or delivered to the Lender will be effective only when actually received by it and then only if it is expressly marked for the attention of the department or officer of the Lender specified in Schedule 1 (The Parties) (or any substitute department or officer as the Lender shall specify for this purpose).
- (c) Any communication or document made or delivered to the Borrowers in accordance with this Clause will be deemed to have been made or delivered to any of the Transaction Obligors.
- (d) Any communication or document which becomes effective, in accordance with paragraphs (a) to (c) above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

### **33.4 Electronic communication**

- (a) Any communication to be made between any two Parties under or in connection with the Finance Documents may be made by electronic mail or other electronic means (including, without limitation, by way of posting to a secure website) if those two Parties:
  - (i) notify each other in writing of their electronic mail address and/or any other information required to enable the transmission of information by that means; and
  - (ii) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.
- (b) Any such electronic communication as specified in paragraph (a) above to be made between an Obligor and the Lender may only be made in that way to the extent that those two Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication.
- (c) Any such electronic communication as specified in paragraph (a) above made between any two Parties will be effective only when actually received (or made available) in readable form and in the case of any electronic communication made by a Party to the Lender only if it is addressed in such a manner as the Lender shall specify for this purpose.
- (d) Any electronic communication which becomes effective, in accordance with paragraph (c) above, after 5.00 p.m. in the place in which the Party to whom the relevant communication is sent or made available has its address for the purpose of this Agreement shall be deemed only to become effective on the following day.
- (e) Any reference in a Finance Document to a communication being sent or received shall be construed to include that communication being made available in accordance with this Clause 33.4 (Electronic communication).

### **33.5 English language**

- (a) Any notice given under or in connection with any Finance Document must be in English.

- (b) All other documents provided under or in connection with any Finance Document must be:
- (i) in English; or
  - (ii) if not in English, and if so required by the Lender, accompanied by a certified English translation prepared by a translator approved by the Lender and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

## **34 CALCULATIONS AND CERTIFICATES**

### **34.1 Accounts**

In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by the Lender are *prima facie* evidence of the matters to which they relate.

### **34.2 Certificates and determinations**

Any certification or determination by the Lender of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

### **34.3 Day count convention**

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 days or, in any case where the practice in the Relevant Interbank Market differs, in accordance with that market practice.

## **35 PARTIAL INVALIDITY**

If, at any time, any provision of a Finance Document is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions under the law of that jurisdiction nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

## **36 REMEDIES AND WAIVERS**

No failure to exercise, nor any delay in exercising, on the part of the Lender or any Receiver or Delegate (as applicable), any right or remedy under a Finance Document shall operate as a waiver of any such right or remedy or constitute an election to affirm any Finance Document. No election to affirm any Finance Document on the part of the Lender or any Receiver or Delegate (as applicable) shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in each Finance Document are cumulative and not exclusive of any rights or remedies provided by law.

## **37 SETTLEMENT OR DISCHARGE CONDITIONAL**

Any settlement or discharge under any Finance Document between the Lender and any Transaction Obligor or any Approved Manager shall be conditional upon no security or

payment to the Lender by any Transaction Obligor or any Approved Manager or any other person being set aside, adjusted or ordered to be repaid, whether under any insolvency law or otherwise.

### **38 IRREVOCABLE PAYMENT**

If the Lender considers that an amount paid or discharged by, or on behalf of, a Transaction Obligor or any Approved Manager or by any other person in purported payment or discharge of an obligation of that Transaction Obligor or that Approved Manager to the Lender under the Finance Documents is capable of being avoided or otherwise set aside on the liquidation or administration of that Transaction Obligor or otherwise, then that amount shall not be considered to have been unconditionally and irrevocably paid or discharged for the purposes of the Finance Documents.

### **39 CONFIDENTIAL INFORMATION**

#### **39.1 Confidentiality**

The Lender agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 39.2 (*Disclosure of Confidential Information*) and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information.

#### **39.2 Disclosure of Confidential Information**

The Lender may disclose:

- (a) to any of its Affiliates and Related Funds and any of its or their officers, directors, employees, professional advisers, auditors, insurers, insurance advisors, insurance brokers, partners and Representatives such Confidential Information as the Lender shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;
- (b) to any person:
  - (i) to (or through) whom it assigns (or may potentially assign) all or any of its rights and/or obligations under one or more Finance Documents and to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
  - (ii) with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, one or more Finance Documents and/or one or more Transaction Obligors and to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
  - (iii) appointed by the Lender or by a person to whom sub-paragraph (i) or (ii) of paragraph (b) above applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf;

- (iv) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in sub-paragraph (i) or (ii) of paragraph (b) above;
- (v) to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;
- (vi) to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitrations, administrative or other investigations, proceedings or disputes;
- (vii) to whom or for whose benefit the Lender charges, assigns or otherwise creates Security (or may do so) pursuant to Clause 28.3 (*Security over Lender's rights*);
- (viii) who is a Party, a member of the Group or any related entity of a Transaction Obligor;
- (ix) as a result of the registration of any Finance Document as contemplated by any Finance Document or any legal opinion obtained in connection with any Finance Document; or
- (x) with the consent of the Parent Guarantor:

in each case, such Confidential Information as the Lender shall consider appropriate if:

- (A) in relation to sub-paragraphs (i), (ii) and (iii) of paragraph (b) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking except that there shall be no requirement for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;
  - (B) in relation to sub-paragraph (iv) of paragraph (b) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is otherwise bound by requirements of confidentiality in relation to the Confidential Information they receive and is informed that some or all of such Confidential Information may be price-sensitive information;
  - (C) in relation to sub-paragraphs (v), (vi) and (vii) of paragraph (b) above, the person to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of the Lender, it is not practicable so to do in the circumstances;
- (c) to any person appointed by the Lender or by a person to whom sub-paragraph (i) or (ii) of paragraph (b) above applies to provide administration or settlement services in respect of one or more of the Finance Documents including without limitation, in relation to the trading of participations in respect of the Finance Documents, such Confidential Information as may be required to be disclosed to enable such service provider to provide any of the services referred to in this paragraph (c) if the service provider to whom the Confidential Information is to be

given has entered in to a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/ Settlement Service Providers or such other form of confidentiality undertaking agreed between the Borrowers and the Lender;

- (d) to any rating agency (including its professional advisers) such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Finance Documents and/or the Transaction Obligors if the rating agency to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information.

### **39.3 Entire agreement**

This Clause 39 (*Confidential Information*) constitutes the entire agreement between the Parties in relation to the obligations of the Lender under the Finance Documents regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

### **39.4 Inside information**

The Lender acknowledges that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and the Lender undertakes not to use any Confidential Information for any unlawful purpose.

### **39.5 Notification of disclosure**

The Lender agrees (to the extent permitted by law and regulation) to inform the Borrowers:

- (a) of the circumstances of any disclosure of Confidential Information made pursuant to sub-paragraph (v) of paragraph (b) of Clause 39.2 (*Disclosure of Confidential Information*) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
- (b) upon becoming aware that Confidential Information has been disclosed in breach of this Clause 39 (*Confidential Information*).

### **39.6 Continuing obligations**

The obligations in this Clause 39 (*Confidential Information*) are continuing and, in particular, shall survive and remain binding on the Lender for a period of 12 months from the earlier of:

- (a) the date on which all amounts payable by the Obligors under or in connection with this Agreement have been paid in full and all Commitment have been cancelled or otherwise cease to be available; and
- (b) the date on which the Lender otherwise ceases to be the Lender.

## 40 CONFIDENTIALITY OF FUNDING RATES

### 40.1 Confidentiality and disclosure

- (a) The Lender agrees to keep each Funding Rate confidential and not to disclose it to anyone, save to the extent permitted by paragraph (b) below.
- (b) The Lender may disclose any Funding Rate, and each Obligor may disclose any Funding Rate, to:
  - (i) any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives, if any person to whom that Funding Rate is to be given pursuant to this sub-paragraph (i) is informed in writing of its confidential nature and that it may be price sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of that Funding Rate or is otherwise bound by requirements of confidentiality in relation to it;
  - (ii) any person to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation if the person to whom that Funding Rate is to be given is informed in writing of its confidential nature and that it may be price sensitive information except that there shall be no requirement to so inform if, in the opinion of the Lender or the relevant Obligor, as the case may be, it is not practicable to do so in the circumstances;
  - (iii) any person to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes if the person to whom that Funding Rate is to be given is informed in writing of its confidential nature and that it may be price sensitive information except that there shall be no requirement to so inform if, in the opinion of the Lender or the relevant Obligor, as the case may be, it is not practicable to do so in the circumstances; and
  - (iv) any person with the consent of the Lender.

### 40.2 Related obligations

- (a) The Lender and each Obligor acknowledge that each Funding Rate is or may be price sensitive information and that its use may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and the Lender and each Obligor undertake not to use any Funding Rate for any unlawful purpose.
- (b) The Lender and each Obligor agree (to the extent permitted by law and regulation) to inform the relevant Lender, as the case may be:
  - (i) of the circumstances of any disclosure made pursuant to sub-paragraph (ii) of paragraph (b) of Clause 40.1 (*Confidentiality and disclosure*) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and

(ii) upon becoming aware that any information has been disclosed in breach of this Clause 40 (*Confidentiality of Funding Rates*).

#### **40.3 No Event of Default**

No Event of Default will occur under Clause 27.4 (*Other obligations*) by reason only of an Obligor's failure to comply with this Clause 40 (*Confidentiality of Funding Rates*).

#### **41 AMENDMENTS**

Without prejudice to the generality of clause 17.4 (*Waiver of defences*) each Obligor acknowledges that it intends that any guarantee contained in this Agreement or any other Finance Document and any Security created by any Finance Document shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following: business acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

#### **42 COUNTERPARTS**

Each Finance Document may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Finance Document.



## SECTION 11

### GOVERNING LAW AND ENFORCEMENT

#### 43 GOVERNING LAW

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

#### 44 ENFORCEMENT

##### 44.1 Arbitration

- (a) Any dispute arising out of and/or in connection with this Agreement (including a dispute regarding the existence, validity or termination of this Agreement and/or any non-contractual obligation arising out of and/or in connection with this Agreement (a "**Dispute**"), shall be referred to and finally resolved by arbitration. Any such arbitration shall be conducted in accordance with English law (inclusive, for the avoidance of doubt, of the provisions of the Arbitration Act 1996 or any statutory modification or re-enactment thereof) and under the terms of the London Maritime Arbitrators Association (the "**LMAA Terms**") current at the time when the arbitration proceedings are commenced. The LMAA Terms are deemed to have been incorporated by reference in this Clause 44.1(Arbitration).
- (b) The seat of the arbitration shall be London. The Tribunal shall consist of three arbitrator(s).
- (c) The language of the arbitration shall be English.
- (d) The Borrowers irrevocably admit to the jurisdiction of an Arbitral Tribunal constituted in accordance with this Clause 44.1 (Arbitration) and any award published by such a Tribunal shall be final and unappealable save for appeals on the grounds of serious irregularity and, for the purposes of enforcing any award, judgement may be entered on an award by any court of competent jurisdiction.
- (e) At any time before the Borrowers (or any of them) have appointed their arbitrator, the Lender may choose to submit a Dispute to any court of competent jurisdiction by giving written notice to the Borrowers (or any of them). If, by the time that the Lender serves such notice, a Borrower has already sought to refer that Dispute to arbitration by serving a notice upon the Lender requiring the Lender to appoint an arbitrator in accordance with this Clause 44.1 (*Arbitration*) above, that Borrower shall withdraw that notice promptly upon receipt of the Lender's notice choosing to submit that Dispute to a court of competent jurisdiction.
- (f) For this purpose, the Borrowers and the Lender hereby irrevocably: (i) submit to the non-exclusive jurisdiction of the High Court of Justice in England to settle any Dispute, (ii) accept that the High Court of Justice in England is an appropriate convenient forum in which to settle any Disputes and agree not to argue to the contrary.

##### 44.2 Service of process

- (a) Without prejudice to any other mode of service allowed under any relevant law, each Obligor (other than an Obligor incorporated in England and Wales):
  - (i) irrevocably appoints Saville & Co. at its registered office for the time being, presently at One Carey Lane, London EC2V 8AE, England as its agent for service of process in

relation to any proceedings before the English courts in connection with any Finance Document; and

- (ii) agrees that failure by a process agent to notify the relevant Obligor of the process will not invalidate the proceedings concerned.
- (b) If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Borrowers (on behalf of all the Obligors) must immediately (and in any event within 5 Business Days of such event taking place) appoint another agent on terms acceptable to the Lender. Failing this, the Lender may appoint another agent for this purpose.

**This Agreement has been entered into on the date stated at the beginning of this Agreement.**

**SCHEDULE 1**

**THE PARTIES**

**PART A**

**THE OBLIGORS**

<b>Name of Borrower</b>	<b>Place of Incorporation</b>	<b>Registration number (or equivalent, if any)</b>	<b>Address for Communication</b>
ATHENA MARINE LLC	Marshall Islands	961764	c/o the Approved Technical Manager 3-5 Menandrou Street 145 61 Kifissia Greece  Fax: +30 210 80 84 224  email: legalconfidential@technomar.gr
APHRODITE MARINE LLC	Marshall Islands	961769	c/o the Approved Technical Manager 3-5 Menandrou Street 145 61 Kifissia Greece  Fax: +30 210 80 84 224  email: legalconfidential@technomar.gr
ARIS MARINE LLC	Marshall Islands	961770	c/o the Approved Technical Manager 3-5 Menandrou Street 145 61 Kifissia Greece  Fax: +30 210 80 84 224  email: legalconfidential@technomar.gr
<b>Name of Parent Guarantor</b>	<b>Place of Incorporation</b>	<b>Registration number (or equivalent, if any)</b>	<b>Address for Communication</b>
GLOBAL SHIP LEASE, INC.	Marshall Islands	28891	c/o the Approved Technical Manager 3-5 Menandrou Street 145 61 Kifissia Greece  Fax: +30 210 80 84 224  email: legalconfidential@technomar.gr

**PART B**

**THE ORIGINAL LENDER**

<b>Name of Original Lender</b>	<b>Commitment</b>	<b>Address for Communication</b>
CHAILEASE INTERNATIONAL FINANCIAL SERVICES PTE. LTD	\$9,000,000	8F, No. 362 Ruiguang Rd. Neihu District Taipei Taiwan 11492  Fax Number: +886-2-8752-6285  <b>Attention:</b> Richard Liao / Ted Chen / Jane Lee  E-mail: richardliao@chailease.com.tw / TedChen@chailease.com.tw / JaneLee@chailease.com.tw  <b>Telephone Number:</b> +886-2-8752-6388 (Extension Numbers: 72279 / 72263 / 72268)

## SCHEDULE 2

### CONDITIONS PRECEDENT

#### PART A

#### CONDITIONS PRECEDENT TO THE UTILISATION REQUEST

##### **1 Obligors**

- 1.1 A copy of the constitutional documents of each Transaction Obligor and each Approved Manager.
- 1.2 A copy of a resolution of the board of directors or, as the case may be, the members of each Transaction Obligor and each Approved Manager:
  - (a) approving the terms of, and the transactions contemplated by, the Finance Documents to which it is a party and resolving that it execute the Finance Documents to which it is a party;
  - (b) authorising a specified person or persons to execute the Finance Documents to which it is a party on its behalf; and
  - (c) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, the Utilisation Request and each Selection Notice) to be signed and/or despatched by it under, or in connection with, the Finance Documents to which it is a party.
- 1.3 An original of the power of attorney of any Transaction Obligor and any Approved Manager authorising a specified person or persons to execute the Finance Documents to which it is a party.
- 1.4 A specimen of the signature of each person authorised by the resolution referred to in paragraph 1.2 above.
- 1.5 A certificate of each Transaction Obligor and each Approved Manager that is incorporated outside the UK (signed by a director, officer or member, as applicable) certifying either that (i) it has not delivered particulars of any UK Establishment to the Registrar of Companies as required under the Overseas Regulations or (ii) it has a UK Establishment and specifying the name and registered number under which it is registered with the Registrar of Companies.
- 1.6 A certificate of an authorised signatory of the relevant Transaction Obligor and the relevant Approved Manager certifying that each copy document relating to it specified in this Part A of Schedule 2 (*Conditions Precedent*) is correct, complete and in full force and effect as at a date no earlier than the date of this Agreement.

##### **2 Finance Documents**

- 2.1 If applicable, any subordination agreement in relation to any Permitted Inter-Company Loans.
- 2.2 A duly executed original of any Finance Document not otherwise referred to in this Schedule 2 (*Conditions Precedent*).

2.3 A duly executed original of any other document required to be delivered by each Finance Document if not otherwise referred to this Schedule 2 (*Conditions Precedent*).

2.4 If applicable, a duly executed original of a Subordinated Finance Document.

### **3 Security**

3.1 A duly executed original of the Account Security in relation to each Earnings Account and of the LLC Interests Security in respect of each Borrower (and of each document to be delivered under each of them).

3.2 If applicable, a duly executed original of the Subordinated Debt Security.

### **4 Legal opinions**

4.1 A legal opinion of Watson Farley & Williams legal advisers to the Lender in England, substantially in the form obtained by the Lender before signing this Agreement.

4.2 If a Transaction Obligor or an Approved Manager is incorporated in a jurisdiction other than England and Wales, a legal opinion of the legal advisers to the Lender in the relevant jurisdiction, substantially in the form distributed to the Lender before signing this Agreement.

### **5 Other documents and evidence**

5.1 Evidence that any process agent referred to in Clause 44.2 (*Service of process*), if not an Obligor, has accepted its appointment.

5.2 A copy of any other Authorisation or other document, opinion or assurance which the Lender considers to be necessary or desirable (if it has notified the Borrowers accordingly) in connection with the entry into and performance of the transactions contemplated by any Transaction Document or for the validity and enforceability of any Transaction Document.

5.3 The Original Financial Statements.

5.4 The original of any mandates or other documents required in connection with opening or operation of the Earnings Accounts.

5.5 Such evidence as the Lender may require for it to be able to satisfy each of its "know your customer" or similar identification procedures in relation to the transactions contemplated by the Finance Documents.

5.6 Evidence satisfactory to the Lender that the Minimum Liquidity Amount has been deposited to the Minimum Liquidity Account.

## PART B

### CONDITIONS PRECEDENT TO UTILISATION

#### 1 Borrowers

A certificate of an authorised signatory of the Borrowers certifying that each copy document which it is required to provide under this Part B of Schedule 2 (*Conditions Precedent*) is correct, complete and in full force and effect as at the Utilisation Date.

#### 2 Ship and other security

2.1 A duly executed original of the Mortgage, any Deed of Covenant, the General Assignment and any Charterparty Assignment in respect of each Ship and of each document to be delivered under or pursuant to each of them together with documentary evidence that the respective Mortgage in respect of each Ship has been duly registered as a valid first preferred or, as the case may be, priority mortgage in accordance with the laws of the jurisdiction of its Approved Flag.

2.2 Documentary evidence that each Ship:

- (a) is definitively and permanently registered in the name of the Borrower owning that Ship under the Approved Flag applicable to that Ship;
- (b) is in the absolute and unencumbered ownership of the Borrower owning that Ship save as contemplated by the Finance Documents;
- (c) maintains the Approved Classification with the Approved Classification Society free of all overdue recommendations and conditions of the Approved Classification Society; and
- (d) is insured in accordance with the provisions of this Agreement and all requirements in this Agreement in respect of insurances have been complied with;

2.3 Documents establishing that each Ship is, as from the Utilisation Date, managed commercially by its Approved Commercial Manager and managed technically by its Approved Technical Manager on terms acceptable to the Lender, together with:

- (a) a Manager's Undertaking for each of the Approved Technical Manager and the Approved Commercial Manager of that Ship; and
- (b) copies of the Approved Technical Manager's Document of Compliance and of the Ships' Safety Management Certificate (together with any other details of the applicable Safety Management System which the Lender requires) and of any other documents required under the ISM Code and the ISPS Code in relation to that Ship including without limitation an ISSC.

#### 3 Legal opinions

Legal opinions of the legal advisers to the Lender in the jurisdiction of the Approved Flag of the Ships and such other relevant jurisdictions as the Lender may require.

**4 Other documents and evidence**

- 4.1 Evidence that any process agent referred to in Clause 44.2 (*Service of process*) has accepted its appointment.
- 4.2 Evidence that the fees, costs and expenses then due from the Borrowers pursuant to Clause 11 (*Fees*) and Clause 16 (*Costs and Expenses*) have been paid or will be paid by the Utilisation Date (or within a reasonable time thereafter subject to Lender's prior consent).



**SCHEDULE 3**  
**REQUESTS**  
**PART A**  
**UTILISATION REQUEST**

From: **ATHENA MARINE LLC**  
**APHRODITE MARINE LLC**  
**ARIS MARINE LLC**  
Trust Company Complex  
Ajeltake Road, Ajeltake Island  
Majuro, MH96960  
Marshall Islands

as joint and several Borrowers

To: **CHAILEASE INTERNATIONAL FINANCIAL SERVICES PTE LTD**  
8F, No. 362  
Ruiguang Rd.  
Neihu District  
Taipei  
Taiwan 11492

as Lender

Dated: [•] 2020

Dear Sirs

**ATHENA MARINE LLC, APHRODITE MARINE LLC and ARIS MARINE LLC – US\$9,000,000 Facility Agreement dated [•] 2020 (the "Agreement")**

- 1 We refer to the Agreement. This is the Utilisation Request. Terms defined in the Agreement have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request.
- 2 We wish to borrow the Loan on the following terms:

Proposed Utilisation Date:	[•] (or, if that is not a Business Day, the next Business Day)
Amount:	[•] or, if less, the Available Facility
Interest Period for the Advance:	[•]

- 3 We confirm that each condition specified in Clause 4.1 (*Initial conditions precedent*) and Clause 4.2 (*Further conditions precedent*) of the Agreement as they relate to the Advance is satisfied on the date of this Utilisation Request.
- 4 The net proceeds of the Advance should be credited to [account].
- 5 This Utilisation Request is irrevocable.

Yours faithfully

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[•]  
authorised signatory for  
**ATHENA MARINE LLC**

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[•]  
authorised signatory for  
**APHRODITE MARINE LLC**

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[•]  
authorised signatory for  
**ARIS MARINE LLC**

**PART B**  
**SELECTION NOTICE**

From: **ATHENA MARINE LLC**  
**APHRODITE MARINE LLC**  
**ARIS MARINE LLC**  
Trust Company Complex  
Ajeltake Road, Ajeltake Island  
Majuro, MH96960  
Marshall Islands

as joint and several Borrowers

To: **CHAILEASE INTERNATIONAL FINANCIAL SERVICES PTE LTD**  
8F, No. 362  
Ruiguang Rd.  
Neihu District  
Taipei  
Taiwan 11492

as Lender

Dated: [●] 2020

Dear Sirs

**ATHENA MARINE LLC, APHRODITE MARINE LLC and ARIS MARINE LLC – US9,000,000 Facility Agreement dated [●] 2020 (the "Agreement")**

- 1 We refer to the Agreement. This is a Selection Notice. Terms defined in the Agreement have the same meaning in this Selection Notice unless given a different meaning in this Selection Notice.
- 6 We request [that the next Interest Period for the Loan be [●]] OR [an Interest Period for a part of the Loan in an amount equal to [●] (which is the amount of the Repayment Instalment next due) ending on [●] (which is the Repayment Date relating to that Repayment Instalment) and that the Interest Period for the remaining part of the Loan shall be [●].
- 7 This Selection Notice is irrevocable.

Yours faithfully

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[●]  
authorised signatory for  
**ATHENA MARINE LLC**

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[•]  
authorised signatory for  
**APHRODITE MARINE LLC**

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[•]  
authorised signatory for  
**ARIS MARINE LLC**

**SCHEDULE 4**

**DETAILS OF THE SHIPS**

Ship name	Name of the Borrower	IMO No.	Type	GRT	NRT	Approved Flag	Approved Classification Society	Approved Classification	Approved Commercial Manager	Approved Technical Manager
NEWYORKER	ATHENA MARINE LLC	9209104	Container Ship	25294	13280	Panama	RINA	C X container ship; unrestricted navigation X AUT-UMS; ICE; INWATERSURVEY; MON-SHAFT	Conchart Commercial Inc. of the Marshall Islands	Technomar Shipping Inc. of Liberia
NIKOLAS	APHRODITE MARINE LLC	9203526	Container Ship	25294	13280	Panama	RINA	C X container ship; unrestricted navigation X AUT-UMS; ICE; INWATERSURVEY; MON-SHAFT	Conchart Commercial Inc. of the Marshall Islands	Technomar Shipping Inc. of Liberia
MAIRA	ARIS MARINE LLC	9203502	Container Ship	25294	13280	Panama	RINA	C X container ship; unrestricted navigation X AUT-UMS; ICE; INWATERSURVEY; LSF N=0,1 %; MON-SHAFT	Conchart Commercial Inc. of the Marshall Islands	Technomar Shipping Inc. of Liberia

**SCHEDULE 5**

**TIMETABLES**

Delivery of a duly completed Utilisation Request (Clause 5.1 (*Delivery of the Utilisation Request*)) or a Selection Notice (Clause 9.1 (*Selection of Interest Periods*))

Five Business Days (or any shorter period as the Lender may agree at the Borrowers' request) before the intended Utilisation Date (Clause 5.1 (*Delivery of a Utilisation Request*)) or the expiry of the preceding Interest Period (Clause 9.1 (*Selection of Interest Periods*))

LIBOR is fixed

Quotation Day as of 11:00 am London time

EXECUTION PAGES

**BORROWERS**

**SIGNED** by Aikaterini Emmanouil )  
duly authorised as attorney-in-fact )  
for and on behalf of ) /s/ Aikaterini Emmanouil  
**ATHENA MARINE LLC**

in the presence of: )  
)  
Witness' signature: ) /s/ Eleni Antonakou  
Witness' name: Eleni Antonakou  
Witness' address: Attorney-at-law  
Watson Farley & Williams  
348 Syngrou Avenue  
176 74 Kallithea  
Athens, Greece

**SIGNED** by Aikaterini Emmanouil )  
duly authorised as attorney-in-fact )  
for and on behalf of ) /s/ Aikaterini Emmanouil  
**APHRODITE MARINE LLC**

in the presence of: )  
)  
Witness' signature: ) /s/ Eleni Antonakou  
Witness' name: Eleni Antonakou  
Witness' address: Attorney-at-law  
Watson Farley & Williams  
348 Syngrou Avenue  
176 74 Kallithea  
Athens, Greece

**SIGNED** by Aikaterini Emmanouil )  
duly authorised as attorney-in-fact )  
for and on behalf of )  
**ARIS MARINE LLC** ) /s/ Aikaterini Emmanouil  
in the presence of: )

Witness' signature: ) /s/ Eleni Antonakou  
Witness' name: Eleni Antonakou  
Witness' address: Attorney-at-law  
Watson Farley & Williams  
348 Syngrou Avenue  
176 74 Kallithea  
Athens, Greece

**PARENT GUARANTOR**

**SIGNED** by Aikaterini Emmanouil )  
duly authorised as attorney-in-fact )  
for and on behalf of )  
**GLOBAL SHIP LEASE, INC.** ) /s/ Aikaterini Emmanouil  
in the presence of: )

Witness' signature: ) /s/ Eleni Antonakou  
Witness' name: Eleni Antonakou )  
Witness' address: Attorney-at-law )  
Watson Farley & Williams )  
348 Syngrou Avenue )  
176 74 Kallithea )  
Athens, Greece )

**LENDER**

**SIGNED** by LIU, MING-CHANG )  
duly authorised as attorney-in-fact )  
for and on behalf of ) /s/ Liu, Ming-Chang  
**CHAILEASE INTERNATIONAL FINANCIAL SERVICES PTE., LTD.** )  
in the presence of: )

Witness' signature: ) /s/ Ted Chen  
Witness' name: Ted Chen )  
Witness' address: 8F, No. 362, Ruiguang Rd., Neihu District, Taipei, Taiwan 11492 )





## GLOBAL SHIP LEASE, INC.

**Board Observer Agreement  
and  
Amendment to Engagement Letter and Underwriting Agreement**

November 12, 2019

This Board Observer Agreement (this “**Agreement**”) is entered into by and between Global Ship Lease, Inc., a Marshall Islands corporation (the “**Company**”) and B. Riley FBR, Inc., a Delaware corporation (“**B. Riley FBR**”) and B. Riley Financial, Inc., a Delaware corporation (the “**Shareholder**”). The Company, B. Riley FBR, and the Shareholder are referred to collectively herein as the “**Parties**” or, individually, as a “**Party**.”

**RECITALS**

WHEREAS, pursuant to the terms and conditions of that certain Engagement Letter, dated August 29, 2019, by and between the Company and B. Riley FBR (the “**Engagement Letter**”), and that certain Underwriting Agreement, dated September 26, 2019, by and between the Company and B. Riley FBR (the “**Underwriting Agreement**”), the Company agreed, among other things, to expand the size of its Board of Directors (the “**Board**”) by one member and nominate and appoint one individual selected by B. Riley FBR as a director of the Board to fill the vacancy created thereby, subject to certain conditions contained therein (the “**Director Appointment Right**”).

WHEREAS, the Parties desire to amend the provisions in the Engagement Letter and the Underwriting Agreement to remove the Director Appointment Right, and in lieu thereof, provide the Shareholder with the right to designate and appoint one observer to the Board as provided herein.

WHEREAS, pursuant to Sections 9(a) and 15(e) of the Engagement Letter and the Underwriting Agreement, respectively, the amendments contemplated by the Parties must be contained in a written agreement signed by each Party.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

**AGREEMENT**

1. Observer Rights.

a. Subject to the terms and conditions of this Agreement, the Company grants to the Shareholder the right to designate and appoint one representative (the “**Observer**”) who is reasonably satisfactory to the Board, to attend all meetings (including telephonic or videoconference meetings of the Board and any Committees) of (i) the Board and (ii) all committees of the Board (the “**Committees**”) to the extent that all non-Committee members of the Board are not excluded from such Committee meetings, in a non-voting, observer capacity. Except as otherwise set forth herein, the Observer may participate fully in discussions of all matters brought to the Board or Committee, as the case may be, for consideration and provide input and advice with respect thereto (the “**Approved Purposes**”), but in no event shall the Observer (i) be deemed to be a member of the Board or any Committee; (ii) without limitation of the obligations expressly set forth in this Agreement, have or be deemed to have, or otherwise be subject to, any duties (fiduciary or otherwise) to the Company or its stockholders; or (iii) have the right to propose or offer any motions or resolutions to the Board or any Committee or to vote upon any motions or resolutions duly brought before the Board or any Committee. The presence of the Observer shall not be required or counted for purposes of establishing a quorum at any meeting of the Board or Committee.

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b. The Company shall provide to the Observer copies of all notices, minutes, consents and other materials that it provides to Board members (collectively, “**Board Materials**”), including any draft versions, proposed written consents, and exhibits and annexes to any such materials, at the same time and in the same manner as such information is delivered to the Board members.

c. Notwithstanding anything herein to the contrary, the Company may exclude the Observer from access to any Board Materials or any Board meeting (or portion thereof) if the Board determines, acting in good faith, that (i) such exclusion is necessary to preserve the attorney-client or work product privilege between the Company (and/or its affiliates and/or its subsidiaries) and its counsel (*provided, however*, that any such exclusion shall only apply to such portion of such material or meeting which would be required to preserve such privilege); (ii) such exclusion is necessary to comply with applicable laws, regulations, or any agreement to which the Company (and/or its affiliates and/or its subsidiaries) is a party or is otherwise bound; or (iii) such Board Materials or discussion relates to the relationship, contractual or otherwise, between the Company (and/or its affiliates and/or its subsidiaries), on one hand, and the Shareholder and/or the Observer, on the other hand, or their respective affiliates (a “**Conflict of Interest**”). In addition, if the Observer has knowledge of a Conflict of Interest, or reasonably believes that a Conflict of Interest may exist, the Observer shall disclose such Conflict of Interest to the Board.

d. The Parties agree that neither the Company nor its affiliates nor any member of the Board or Committee shall be entitled to rely on any statements or views expressed by the Observer in any Board or Committee meeting. The Parties further agree that all Confidential Information (as defined below) is provided to the Observer “AS IS” and the Company does not make, and expressly disclaims, any representation or warranty as to the accuracy or completeness thereof. Without limiting the foregoing, the Company shall have no liability to the Observer, the Shareholder or their respective affiliates or Representatives (as defined below) resulting from any use or reliance on any Confidential Information.

## 2. Confidential Information.

a. The Shareholder agrees to treat (and agrees to cause and ensure that each Shareholder Party (as defined below), the Observer, and each of their respective Representatives treat) all Confidential Information (as defined below) as strictly confidential and not to disclose any such Confidential Information except as permitted in accordance with the terms and conditions set out in this Section 2.

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b. As used in this Agreement, “**Confidential Information**” means any and all information or data concerning the Company (including its affiliates and subsidiaries), whether in verbal, visual, written, electronic or other form, which is disclosed to the Shareholder or the Observer by the Company or any Representative of the Company (including all Board Materials that are non-public information) or learned by the Shareholder or the Observer in connection with the rights provided hereunder, together with all information discerned from, based on or relating to any of the foregoing which may be prepared or created by the Shareholder or any of its affiliates (each, a “**Shareholder Party**”), the Observer, or any of their respective Representatives (as defined below); *provided, however*, that “Confidential Information” shall not include information that: (i) is or becomes generally available to the public other than as a result of disclosure of such information by a Shareholder Party, the Observer, or any of their respective Representatives; (ii) is independently developed by a Shareholder Party, the Observer, or any of their respective Representatives without use of Confidential Information; (iii) becomes available to the recipient of such information at any time on a non-confidential basis from a third party that is not, to the recipient’s knowledge, prohibited from disclosing such information to a Shareholder Party, the Observer, or any of their respective Representatives by any contractual, legal or fiduciary obligation to the Company; or (iv) was known by a Shareholder Party or the Observer prior to receipt of such Confidential Information. The term “**Representative**” shall mean, as to any person, such person’s directors, officers, members, managers, employees, agents or professional advisors.

c. The Shareholder agrees to (and agrees to cause to and ensure that each Shareholder Party, the Observer, and their respective Representatives) (a) retain all Confidential Information in confidence; (b) not release or disclose Confidential Information in any manner to any other person (other than disclosures to a Shareholder Party or to any of its Representatives who (i) have a need to know such information; (ii) are informed of its confidential nature; and (iii) agree to keep such information confidential); and (c) use the Confidential Information solely in connection with (i) the Shareholder’s and the Observer’s rights hereunder; or (ii) monitoring, reviewing and analyzing the Shareholder’s investment in the Company; *provided, however*, that the foregoing shall not apply to the extent a Shareholder Party or any of its Representatives or the Observer is compelled to disclose Confidential Information by judicial, regulatory or administrative process, pursuant to the advice of its counsel, or by requirements of law; *provided, further, however*, that, if legally permissible, the disclosing party shall use commercially reasonable efforts to notify the Company so that the Company may take action, at its expense, to prevent such disclosure and any such disclosure is limited only to that portion of the Confidential Information which such person is compelled to disclose.

d. The Shareholder agrees to be responsible for enforcing the terms of this Agreement and maintaining the confidentiality of the Confidential Information as to the Shareholder Parties, the Observer, and their respective Representatives and to take such action, legal or otherwise, to the extent necessary to cause compliance with the terms and conditions of this Agreement and thereby prevent disclosure of the Confidential Information by the Shareholder Parties, the Observer or their respective Representatives (including, without limitation, actions that the Shareholder would take to protect its own trade secrets and/or confidential information, as applicable). The Shareholder acknowledges and agrees that it shall be responsible and liable to the Company for any breach of the terms of this Agreement caused by any Shareholder Party, the Observer, or their respective Representatives as if it were its own, and the Company shall retain all rights under applicable laws to seek remedies against the Shareholder for any such breach by a Shareholder Party, the Observer and any of their respective Representatives, except in cases where the Company has the right to enforce such breach under separate confidentiality agreement with such Shareholder Party, the Observer or Representatives, as applicable. The Shareholder hereby agrees to notify the Company in writing of any misuse, misappropriation or unauthorized disclosure of the Confidential Information by any Shareholder Party, the Observer, or their respective Representatives in violation hereof promptly upon the same coming to its attention.

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e. The Shareholder agrees that, upon the request of the Company following a Termination (as defined below), it will (and will cause the Observer, its affiliates and its and their Representatives to) promptly (i) return or destroy, at the Company's option, all physical materials containing or consisting of Confidential Information and all hard copies thereof in their possession or control; and (ii) destroy all electronically stored Confidential Information in their possession or control, *provided, however*, that each of the Shareholder, its affiliates and its and their Representatives may retain any electronic or written copies of Confidential Information as may be (A) stored on its electronic records or storage system resulting from automated back-up systems; or (B) required by law, other regulatory requirements, or internal document retention policies; *provided, further, however*, that any such retained Confidential Information shall remain subject to this Section 2.

f. [reserved].

3. Compliance with Securities Laws. The Shareholder agrees that the Confidential Information is given to the Observer in confidence in accordance with the terms of this Agreement, and the Shareholder will not take any action relating to the securities of the Company and any of its investments therein that would constitute insider trading, market manipulation, or any other violation of applicable securities laws. The Shareholder acknowledges that it has received a copy of the Company's Insider Trading Policy (the "**Policy**"). The Shareholder hereby agrees to comply with the terms and conditions of the Policy with respect to any transaction in Company securities.

4. Notices. All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given if mailed or transmitted and confirmed by any standard form of telecommunication. Notices to B. Riley FBR shall be given to B. Riley FBR, Inc. 11100 Santa Monica Blvd., Suite 800, Los Angeles, CA 90025, Attention: General Counsel. Notices to the Shareholder shall be given to B. Riley Financial, Inc., 21255 Burbank Boulevard, Suite 400, Woodland Hills, CA 91367, Attention: General Counsel. Notices to the Company shall be given to Ian J. Webber, Chief Executive Officer, Global Ship Lease, Inc., 25 Wilton Road, London SW1V 1LW, United Kingdom with a copy to [ian.webber@globalshiplease.com](mailto:ian.webber@globalshiplease.com).

5. Governing Law; Venue. This Agreement and any claim, controversy or dispute arising under or related to this Agreement shall be governed by and construed in accordance with the laws of the State of New York applicable to agreements made and to be performed in such state. Each party hereby (i) irrevocably and unconditionally consents to the personal jurisdiction and venue of the courts located in the City and County of New York, Borough of Manhattan; (ii) agrees that it shall not attempt to deny or defeat such personal jurisdiction motion or other request for leave from any such court; (iii) agrees that it shall not bring any action relating to this Agreement or otherwise in any court other than the courts located in the City and County of New York, Borough of Manhattan; and (iv) irrevocably waives the right to trial by jury.

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6. Termination.

- a. Subject to paragraph (c) below, this Agreement shall terminate and be of no further force and effect (“**Termination**”) immediately upon the failure of the Shareholder and/or its affiliates to beneficially own an aggregate of 5% or more of the Company’s outstanding voting power (the “**Termination Event**”); *provided*, that Section 2, Section 3 and Section 5 shall survive any such termination or expiration; *provided, further*, that, notwithstanding anything herein to the contrary, the Shareholder’s obligations pursuant to Section 2 shall terminate on the second annual anniversary following Termination and the Shareholder’s obligations pursuant to Section 3 shall continue for so long as the Shareholder is in possession of material, non-public information as a result of its rights under this Agreement.
- b. Notwithstanding paragraph (a) above, as soon as practicable, but in any event no later than three (3) business days after the occurrence of the Termination Event of which the Shareholder becomes aware, the Shareholder shall provide notice to the Company that the Termination Event has occurred and that this Agreement has been terminated.
- c. In the event that the Company becomes aware that the Termination Event has occurred prior to receiving notice from the Shareholder as required by paragraph (b) above, the Company shall provide notice to the Shareholder that it believes that the Termination Event has occurred (the “**Company Notice**”), and upon the Shareholder’s written confirmation to the Company (such confirmation not to be unreasonably withheld or delayed, but in any event, shall be provided within three (3) business days of receiving the Company Notice) that the Termination Event has occurred, this Agreement shall be deemed terminated in accordance with paragraph (a) above.
- d. Effective upon Termination, (i) the Observer shall no longer be entitled to exercise any rights afforded to the Observer under Section 1 of the Agreement and (ii) the Observer appointment shall be terminated.

7. Amendment to the Engagement Letter. Section 1(d) of the Engagement Letter is hereby amended and restated in its entirety as follows:

“(d) [Reserved]”

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8. Amendment to the Underwriting Agreement. Section 2(f) of the Underwriting Agreement is hereby amended and restated in its entirety as follows:

“(f) [Reserved].”

9. Liability. The Shareholder acknowledges and agrees that with respect to the actions and transactions contemplated hereunder (i) the Shareholder is directly responsible for the Observer and his or her actions, (ii) the Observer is an agent of, and is acting on behalf of, the Shareholder, (iii) all actions of the Observer are attributable to the Shareholder as direct actions of the Shareholder, and (iv) the Shareholder shall be liable, and agrees to be liable, for any actions taken by the Observer that result in a violation of the terms of the Agreement as if such actions were taken directly by the Shareholder, whether or not such Observer is affiliated with the Shareholder at the time of such breach of this Agreement.

10. Miscellaneous.

a. Expenses. The Company agrees to reimburse the Shareholder promptly for reasonable out-of-pocket expenses incurred in connection with the Observer’s attendance at Board and Committee meetings; *provided, however*, that all reimbursements payable by the Company pursuant to this Section 10(a) shall be payable in accordance with and subject to the Company’s policies and practices with respect to director expense reimbursement then in effect.

b. Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision. Solely to the extent that any provision or restriction contained in this Agreement is found by a court to be unreasonable or unenforceable, then such court may amend or modify any such provision or restriction so it can be enforced to the fullest extent permitted by law.

c. Headings and eSignature. The section headings in this Agreement have been inserted as a matter of convenience of reference and are not a part of this Agreement. This Agreement may be executed by electronic signature in any number of counterparts, each of which together shall constitute one and the same instrument.

d. No Waivers. Any waiver by any Party hereto of a breach of any provision of this Agreement shall not operate or be construed to be a waiver of any other breach of such provision or of any breach of any other provision of this Agreement. The failure of a Party to insist on strict adherence to any term of this Agreement on one or more occasions shall not be construed as a waiver or deprive such Party of the right to thereafter insist on strict adherence to that term or any other term of this Agreement.

e. Entire Agreement; No Assignment. This Agreement constitutes the entire agreement and understanding of the Parties, and supersedes any and all previous agreements and understandings, whether oral or written, between the Parties regarding the matters set out in this Agreement. No provision of this Agreement may be amended, modified or waived, except in a writing signed by the Parties hereto. This Agreement and the rights described herein may not be assigned by the Shareholder.

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

**GLOBAL SHIP LEASE, INC.**

By: /s/ Ian J. Webber  
Name: Ian J. Webber  
Title: Chief Executive Officer

**B. RILEY FBR, INC.**

By: /s/ Patrice McNicoll  
Name: Patrice McNicoll  
Title: Co-Head of Investment Banking

**B. RILEY FINANCIAL, INC.**

By: /s/ Daniel Shribman  
Name: Daniel Shribman  
Title: Chief Investment Officer

[Signature Page to Board Observer Agreement]

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**DATED 1<sup>st</sup> AUGUST 2019**

**GSL ENTERPRISES LTD.**

and

Georgios Giouroukos

**EMPLOYMENT AGREEMENT**

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## EMPLOYMENT AGREEMENT

DATE

1 AUGUST 2019

### PARTIES

- (1) GSL ENTERPRISES LTD., whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands, MH 969600 and has established a branch office in Greece pursuant to the provisions of art. 25 of Law 27/1975 (former law 89/67) at 9, Irodou Attikou Street, Kifisia, Athens, 14561 Greece (the “**Company**”); and
- (2) GEORGIOS GIOUROUKOS, an individual residing at 3-5, Menandrou Street, Kifisia, Athens, 14561, Greece, with Greek tax identification number 026811437, issued by the Greek tax office of Kifisia, Athens (the “**Executive**”).

**WHEREAS**, the Executive has agreed, as an employee of the Company in a senior management position, to oversee and participate in the provision of services to the Company on the terms of this Employment Agreement (the “**Agreement**”) particularly given his appointment as Executive Chairman of the parent company Global Ship Lease, Inc., whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands, MH 969600 and the address of principal executive offices is Portland House, Stag Place, London SW1E 5RS, United Kingdom and whose common stock has been registered pursuant to Section 12(b) of the United States Securities Exchange Act of 1934, as amended, and is listed on the New York Stock Exchange under the trading symbol “GSL”, (the “**Listed Company**”).

### OPERATIVE PROVISIONS

#### 1. INTERPRETATION

- 1.1 In this Agreement the following words and expressions shall have the following meanings:

“**the Board**” means the board of directors of the Company or the Listed Company, as the context may require; references to the “**Board of the Listed Company**” shall mean the Board of Directors of Global Ship Lease, Inc. or if appropriate the compensation committee thereof;

“**Change in Control Transaction**” means the consummation, following the date of the Merger (as defined below), of any of the following transactions:

- a. the acquisition, directly or indirectly, by any individual, partnership, firm, company, association, trust, unincorporated organization or other entity (a “**Person**”), or any Persons acting as a “**group**” within the meaning of Section I 3(d)(3) of the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”) of beneficial ownership (within the meaning of Rule 13d-3 of the Exchange Act) (other than the
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Listed Company or a person that directly or indirectly controls, is controlled by, or is under common control with, the Listed Company) of securities of the Listed Company representing more than 50% of the total combined voting power of the Listed Company's then outstanding securities entitled to vote in the election of the directors of the Listed Company (the "Voting Shares");

b. the Listed Company disposing of all or substantially all of its assets;

c. 10% or more of the value of the assets of the Listed Company, or the Voting Shares of the Listed Company are about to be transferred, or have been transferred, because of any taking, seizure, or defeasance as a result of, or in connection with (i) nationalization, expropriation, confiscation, coercion, force or duress, or other similar action under the laws of the Republic of the Marshall Islands, or (ii) the imposition by the Republic of the Marshall Islands of a confiscatory tax, assessment, or other governmental charge or levy;

d. the merger of the Listed Company with or into another corporation or any other transaction in which securities possessing more than 50% of the total combined voting power of the Listed Company are transferred to a person or persons different from the persons holding those securities immediately prior to such transaction; or

e. the Board by resolution duly adopted by the affirmative vote of a simple majority of the votes cast by the Board determines that for the purposes of this Agreement, a Change in Control Transaction has occurred; or

f. there is a change in boardroom control of the Listed Company. A change in boardroom control for the purpose of this clause shall mean a change in the directors of the board of the Listed Company such that the majority of directors on the Board following such change are directors who were not directors immediately following the closing of the Mergers.

A transaction shall not constitute a Change in Control Transaction if its sole purpose is to change the state of the Listed Company's incorporation or to create a holding company that will be owned in substantially the same proportions by the persons who held the Listed Company's securities immediately before such transactions.

**"Good Reason"** means (a) the assignment to the Executive by the Company or the Listed Company of any duties or responsibilities inconsistent with the Executive's position, including but not limited to, any change in title the effect of which results in the Executive having a lesser status than Executive Chairman in the Listed Company, (b) a reduction in the Executive's base salary, (c) any change in location of the Company's principal administrative office or the Executive's normal place of work to be outside of Greece, (d) a Change in Control Transaction, (e) a Material Transaction or (f) any unilateral adverse/unfavourable variation of the employment terms of the Executive by the Company as defined by Greek labour law;

“**Group Company**” means the Company, the Listed Company, any company of which the Listed Company is a subsidiary (its holding company) and any other subsidiaries of the Listed Company or such holding company;

“**Material Transaction**” means any merger or acquisition (which is not a Change in Control Transaction) which is determined by the Board acting reasonably and in good faith to be a material merger or acquisition having a material impact on the ownership structure of the Group Companies;

“**Merger Agreement**” means the Agreement and Plan of Merger, dated as of 29 October, 2018, by and among the Listed Company, Poseidon Containers Holdings, LLC, K&T Marine, LLC and the other parties named therein.

“**Merger**” means the consummation of the mergers contemplated under the Merger Agreement;

“**Relevant Stock Exchange**” means the New York Stock Exchange and/or any other stock exchange, recognized investment exchange or automated quotation system on which any Group Company or any of their securities, as applicable, is listed, dealt in or admitted for trading;

“**Stock Incentive Plan**” means any outstanding equity incentive plan maintained by a Group Company;

“**Subsidiary Company**” means any Group Company other than the Company and the Listed Company;

“**Termination Date**” means the date of the termination of the employment of the Executive hereunder, howsoever caused;

1.2 In this Agreement (unless the context otherwise requires):

- (A) any reference to any statute or statutory provision shall be construed as including a reference to any modification, re-enactment or extension of such statute or statutory provisions of Greek labour law or the law of any other state as may be applicable in the context of the Executive’s employment, for the time being in force or to any subordinate legislation made under the same;
- (B) any reference to a clause is to a clause of this Agreement;
- (C) the expression “directly or indirectly” means (without prejudice to the generality of the expression) either alone or jointly with or on behalf of any other person, firm or body corporate and whether on his own account or in partnership with another or others or as the holder of any interest in or as officer, employee or agent of or consultant to any other person, firm or body corporate.

1.3 The headings contained in this Agreement are for convenience only and do not form part of and shall not affect the construction of this Agreement or any part of it.

**2. APPOINTMENT**

2.1 The Company has appointed the Executive and the Executive agrees to serve the Company as director and President of the Company and shall report to the Board of the Listed Company. The Executive has also been appointed as of 15 November 2018 as a director and as of 20 November 2018 as Executive Chairman of the Listed Company. The Executive shall be the highest ranking officer of the Company and the Listed Company.

2.2 The Executive warrants that by virtue of entering into this Agreement he will not be in breach of any express or implied terms of any contract with or of any other obligation to any third party which are binding upon him.

**3. TERM AND NOTICE**

3.1 The terms of this Agreement and the provision of services to the Company during the course of the Executive's employment by the Company shall commence on the date of this Agreement and, subject to the provisions of clause 17, continue for an indefinite term unless and until terminated by:

(A) the Company giving to the Executive not less than 12 months' written notice; or

(B) the Executive giving to the Company not less than 6 months' written notice, unless Executive's resignation is for Good Reason in which case the Executive shall have given to the Company not less than 14 days' written notice.

3.2 Under no circumstance may the Executive's employment be terminated by the Company under clauses 3.1(A) and 17 or otherwise, or placed on paid leave under clause 19.3, without the affirmative vote of 2/3rds of the members of the Board of the Listed Company.

3.3 The Company reserves the right at any time, in its absolute discretion but always subject to clause 3.2, to terminate the Executive's employment by paying to the Executive a sum equal to his salary and contractual benefits for the relevant period of notice specified in clause 3.1, simultaneously with the severance payment provided in clause 16.1(A) and the payment of any other amount as provided in clause 16.2.

3.4 It is expressly agreed that the terms of this Agreement relating to the termination of the employment (including without limitation under clauses 3.1(A), 3.2, 3.3 and 17) shall apply in addition to any rights or benefits provided by the applicable provisions of Greek labour law (including Law 2112/1920 in conjunction with Law 3198/1955), as in force from time to time.

#### 4. DUTIES

- 4.1 The Executive shall during the continuance of his employment:
- (A) exercise such powers and perform such duties in relation to the business of the Company, of the Listed Company or of any Subsidiary Company as may from time to time be vested in or assigned to him by the Board, provided always that such new assignments do not constitute a unilateral adverse/unfavourable variation of the employment terms;
  - (B) well and faithfully serve the Company, the Listed Company and any relevant Subsidiary Companies to the best of his ability and carry out his duties with all due care, skill and ability, and use his best endeavors to promote and maintain their interests and reputation;
  - (C) be a director of the Company and act as President thereof, and remain in such capacities without any additional remuneration (other than the amounts specified in this Agreement);
  - (D) be a director of the Listed Company and act as Executive Chairman thereof, and remain in such capacities without any additional remuneration (other than the amounts specified in this Agreement);
  - (E) become a director of Global Ship Lease Services Limited and the sole member of the chartering committee of its board of directors, and remain in such capacity without any additional remuneration (other than the amounts specified in this Agreement); and
  - (F) have responsibility for the duties set forth on Exhibit A hereto.
- 4.2 The Executive will serve the Company, the Listed Company and any Subsidiary Company in such capacity as the Board shall determine from time to time. In performance of his duties the Executive shall:
- (A) normally perform his duties in 3-5 Menandrou Street, Kifissia, Athens, 14561 Greece or in 9, Irodou Attikou Street, Kifisia, Athens, 14561 where the Company has an established office pursuant to the provisions of art. 25 of Law 27/1975 (former law 89/67). However, due to the nature of the business of the Company and the Listed Company and the Executive's managerial position, the Executive agrees that he shall be required to travel and he may be required from time to time to work at other locations possibly in other countries for temporary periods as the position of the Executive may from time to time reasonably require, without such requirement constituting a unilateral adverse variation of the employment terms. The Company shall give reasonable notice of such temporary changes of place of work to the Executive;
  - (B) devote approximately fifty percent (50%) of his working time, skill, ability and attention to the business of the Company and the Listed Company,

such that he can pursue those permitted activities set forth in section 2.2 of that certain Non-Compete Agreement with the Listed Company and ConChart Commercial Inc. effective as of 15 November 2018, as the same may be amended from time to time, (the “Non-Compete Agreement”);

- (C) in all respects conform to and comply with lawful directions and regulations given and made by the Board; and
- (D) in all respects conform to and comply with all relevant rules and/or codes issued by or on behalf of any Relevant Stock Exchange.

4.3 The Executive shall immediately upon the Company’s request supply any and all information which the Listed Company or any other Group Company may reasonably require in order to be able to comply with any statutory or regulatory provision or stock exchange rule or requirement of any Relevant Stock Exchange.

4.4 The Executive shall comply with the Company’s, the Listed Company’s or any other Group Company’s health and safety procedure from time to time in force.

## 5. SALARY

5.1 The Company shall pay to the Executive by way of remuneration for his services under this Agreement a basic net salary per annum of US Dollars Eighty Thousand (\$80,000) or the equivalent amount in Euros, at the option of the Executive (the “**Basic Net Annual Salary**”) inclusive of any director’s fees payable to him by the Company, the Listed Company or any other Group Company. If the Company is required to deduct or withhold Employment Taxes (as defined below) with respect to the Basic Net Annual Salary, then the Company shall pay to the Executive, in addition to the Basic Net Annual Salary payment, such additional amount as is necessary to ensure that the net amount actually received by the Executive (after the deduction or withholding of Employment Taxes) equals the Basic Net Annual Salary. As used herein, “**Employment Taxes**” means any applicable withholdings or deductions for, or on account of, any present or future income taxes, employee national insurance or social security contributions or other statutory payments of any nature due in respect of his Basic Net Annual Salary and any other benefits provided to him by the Company, the Listed Company or any other Group Company provided such withholdings or deductions are required by applicable law. The Basic Net Annual Salary shall accrue from day to day and shall be payable in arrears on a 14-month basis in accordance with the applicable provisions of Greek employment law (and shall be paid pro rata where the Executive is only employed during part of a month). The Basic Net Annual Salary shall be reviewed by (with the outcome of such review being at the absolute discretion of) the Board of the Listed Company on or about 1 January in each calendar year with the first such review to take place as at 1 January 2020 without commitment to increase. Executive’s Basic Net Annual Salary shall not be decreased.

5.2 The Company shall be entitled to deduct from any sums payable to the Executive (including salary) such sums as the Executive notifies the Company in writing to pay



directly into any personal pension scheme of the Executive which is additional to the State's pension scheme through national insurance contributions.

- 5.3 The Executive due to his senior managerial position, is not subject to the provisions of Greek labour law which are incompatible with the special position of supervision, management and trust he possesses. More specifically, he is not subject to the provisions relating to and will not be entitled to any additional remuneration or payment (unless as and to the extent otherwise provided in this Agreement including in particular without limitation clauses 5, 6, 7 and 11) in respect of working hours, overtime (yperergasia), overtime exceeding maximum working hours (yperoria), work at night, work on any banking or public holiday, work on the sixth day of the week or on Sundays, Christmas or Easter bonuses, annual leave allowance etc. In any event, if any claim in respect of the above exists or arises, or if there is any additional right, amount or benefit provided by any collective bargaining agreement, such right or claim shall be set off with the amounts that the Executive receives under this Agreement to the fullest extent permitted by the law.

## 6. EXPENSES

The Company shall reimburse the Executive all reasonable traveling, hotel, entertainment and other out of pocket expenses incurred by him in or about the performance of his duties under this Agreement subject to his compliance with the Company's and the Listed Company's then current guidelines, if any, relating to expenses and to the production, if required, of receipts, vouchers or other supporting documents.

## 7. BONUS SCHEME

The Executive will be entitled to participate in any contractual bonus scheme or schemes established from time to time by the Company, the Listed Company or any other Group Company for executives of equivalent status to the Executive, subject always to the rules of those schemes. Any agreement which shall contractually determine the terms pursuant to which the Executive shall be entitled to bonus payments out of the profits of the Company in accordance with the provisions of Law 4111/2013, art. 43 para.5 shall be hereafter referred to as the "**Bonus Scheme Agreement**".

## 8. SHARE SCHEMES

The Executive will be entitled to participate in such share schemes as the Company or the Listed Company or any other Group Company may operate upon such terms as the Board may from time to time determine and subject always to the rules and eligibility requirements of the scheme or schemes from time to time in force.

## 9. HEALTH, LIFE AND MEDICAL INSURANCE

- 9.1 The Executive shall during his employment be entitled to participate in any Group Company's:

(A) permanent health insurance scheme; and

- (B) arrangements for private medical treatment or medical health insurance including spouse or partner or anyone living as such and dependent children under the age of 21 years; and
- (C) life assurance (together the “**Insurance Schemes**”) operated from time to time by or for the Listed Company for the benefit of employees of the Listed Company or any other Group Company of equivalent status to the Executive, subject to any applicable rules and conditions of the Insurance Schemes. To the extent that there is any disparity between the rules and conditions of the relevant Insurance Scheme and the terms of this Agreement the relevant scheme rules and conditions shall prevail. The Listed Company shall not have any liability to pay any benefit to the Executive (or any family member) under any Insurance Scheme unless it receives payment of the benefit from the insurer under the scheme and shall not be responsible for providing the Executive (or any family member) with any benefit under an Insurance Scheme in the event that the relevant insurer refuses for whatever reason to pay or provide or to continue to pay or provide that benefit to the Executive (or family member).

9.2 Any Insurance Scheme which is provided for the Executive is also subject to the Listed Company’s right to alter the cover provided or any term of that scheme or to cease to provide (without replacement) the scheme at any time if in the opinion of the Board (after the Executive has been examined by a medical practitioner nominated by the insurers or by the Listed Company) the state of the Executive’s health is or becomes such that the Listed Company is unable to insure the benefits under the scheme at the normal premiums applicable to a person of the Executive’s age.

9.3 No contracting out certificate is in force in relation to this employment.

## 10. ILLNESS

10.1 In the event of illness or other incapacity beyond his control as a result of which he is unable to perform his duties, the Executive shall remain entitled to receive his salary in full for any continuous period of 3 months or an aggregate period of 90 days’ absence in any consecutive 12 month period subject to:

- (A) compliance with the Company’s procedures relating to sickness notification, statutory sick pay and self-certification to cover absence from work due to sickness or other incapacity and to the provision of medical certificates and/or (at the Company’s discretion) undergoing a medical examination by a doctor appointed by the Company. The Executive shall co-operate in ensuring the prompt delivery of such report to the Company and authorize his own medical practitioner to supply all such information as may be required by that doctor and, if so requested by the Company, authorize his medical practitioner to disclose to the Company his opinion of the Executive’s state of health;

- (B) a deduction (at the Company's discretion) from his salary of an amount or amounts equal to any statutory sick pay or social security benefits to which the Executive is entitled; and
- (C) a deduction (at the Company's discretion) from his salary of an amount or amounts equal to any payment made to the Executive under any health insurance arrangements effected from time to time by the Company and/or any Group Company on his behalf.

**11. VACATION DAYS**

- 11.1 The Executive, despite his senior management position, shall be entitled to 25 working days of vacation (in addition to the official public holidays in Greece) in each calendar year commencing on 1 January in each year (which shall accrue on a monthly basis). Holidays shall be taken at such times as are reasonable and convenient having regard to the requirements of the Company's business.
- 11.2 If at the end of the calendar year the Executive has accrued vacation entitlement which he has not used he shall be entitled to carry forward an absolute maximum of up to 10 days into the following calendar year.
- 11.3 The Company reserves the right, at its absolute discretion, to require the Executive to take any outstanding vacation days during any notice period.
- 11.4 On termination of the Executive's employment (howsoever occasioned), if the Executive has taken more or less than his annual vacation entitlement an appropriate adjustment shall be made to any payment of salary or benefits from the Company to the Executive. In this event the calculation shall be made on the basis that each day of vacation is worth 1/260 of his basic salary as set out in clause 5.1.

**12. NON-COMPETITION AGREEMENT**

- 12.1 The Executive shall be bound by the Non-Compete Agreement.

**13. CONFIDENTIAL AND BUSINESS INFORMATION**

- 13.1 In addition to and without prejudice to the Executive's common law obligations to keep information secret, the Executive shall not (except for the purpose of performing his duties hereunder or unless ordered to do so by a court of competent jurisdiction) either during his employment or after its termination directly or indirectly use, disclose or communicate Confidential and Business Information and he shall use his best endeavors to prevent the improper use, disclosure or communication of Confidential and Business Information:
  - (A) concerning the business of the Company, the Listed Company or any other Group Company and which comes to the Executive's attention during the course of or in connection with his employment or provision of services to the Company, the Listed Company or any other Group Company from any

source within the Company, the Listed Company or any other Group Company; or

- (B) concerning the business of any person having dealings with the Company, the Listed Company or any other Group Company and which is obtained in circumstances in which the Company, the Listed Company or any other Group Company is subject to a duty of confidentiality in relation to that information.

13.2 For the purposes of clause 13.1, Confidential and Business Information means:

- (A) any information of a confidential nature (whether trade secrets, other private or secret information including secrets and information relating to corporate strategy, business development plans, product designs, intellectual property, business contacts, terms of business with customers and potential customers and/or suppliers, annual budgets, management accounts and other financial information); and/or
- (B) any confidential report or research undertaken by or for the Company, the Listed Company or any other Group Company before or during the course of the Executive's employment; and/or
- (C) lists or compilations of the names and contact details of the individuals or clients and counterparts with whom the Company, the Listed Company or any other Group Company transacts business; and/or
- (D) the previous 18 months' financial results of any individual part of the business of the Company, the Listed Company or any other Group Company; and/or
- (E) details of all computer systems and/or data processing or analysis software developed by the Company, the Listed Company or any other Group Company; and/or
- (F) details of the requirements, financial standing, terms of business and dealings with any Company, the Listed Company or any other Group Company of any client of the Company, the Listed Company or any other Group Company; and/or
- (G) contact details of all employees and directors of the Company, the Listed Company or any other Group Company together with details of their remuneration and benefits; and/or
- (H) information so designated by the Company, the Listed Company or any other Group Company or which to the Executive's knowledge has been supplied to the Company, the Listed Company or any other Group Company subject to any obligation of confidentiality.

- 13.3 The restrictions contained in this clause 13 shall cease to apply with respect to any information which would otherwise have been Confidential and Business Information but which comes into the public domain or is otherwise in the possession of Executive's affiliates other than through an unauthorized disclosure by the Executive or a third party.
- 13.4 The obligations of the Executive under this clause 13 shall continue to apply after the termination of the Executive's employment (howsoever terminated).

14. **DATA PROTECTION**

- 14.1 The parties hereby confirm and agree that they are committed to complying with the principles and requirements of the EU General Data Protection Regulation (GDPR).
- 14.2 The Executive hereby acknowledges that:
- (A) the Company will collect and process information about the Executive, such as the Executive's name and contact details as well as more sensitive information, for various purposes in connection with the Executive's employment, including to manage benefits and payments, to manage expenses, to manage recruitment and on-boarding, to manage absences, for security purposes, to handle claims and disciplinary actions, to monitor performance and use of the IT systems, to conduct certain background checks and to comply with the Company's legal obligations;
  - (B) the Company will collect from the Executive and store personal data about the Executive's next of kin, such as their name and contact details, for use in emergency situations, and the Executive agrees that he has informed such individuals that their details have been provided to the Company;
  - (C) the Company may pass the Executive's information to third parties such as the Executive's previous employers, companies for which the Executive provided services, public authorities, law enforcement agencies, fraud prevention agencies and regulators who use it in connection with the purposes set out above. The Company may also pass the Executive's information to third party agents who handle it on behalf of the Company; and/or
  - (D) depending on the circumstances, the Company's use of personal data may involve a transfer of data outside the EU (and the European Economic Area).
- 14.3 The Listed Company's Privacy Notice, which shall also be applicable to the employment of the Executive by the Company gives more details of the personal information about the Executive and the Executive's next of kin that the Company collects and processes. The Executive confirms that he has read the notice. The Privacy Notice does not form part of the terms and conditions of the Employment, and the Company reserves the right to amend it from time to time and to update the uses of personal data listed above and in the Privacy Notice.

14.4 The Executive shall comply with Company, the Listed Company and other Group Company policies relating to data privacy when handling personal data in the course of the employment, including personal data relating to any employee, customer, client, supplier or agent of the Company. The Executive will also comply with the Company, the Listed Company and other Group Company policies from time to time in place relating to IT and communications systems, use of social media and other policies as included from time to time.

14.5 Failure to comply with Company, the Listed Company and other Group Company policies relating to data privacy or any of the policies listed above in clause 14.3 may be dealt with under the Company's disciplinary procedure and, in serious cases, may be treated as gross misconduct leading to summary dismissal.

15. **[INTENTIONALLY OMITTED]**

16. **TERMINATION**

16.1 If the Executive resigns for Good Reason, or the Company terminates Executive's employment for any reason whatsoever other than for Cause (as defined below in clause 17.1):

(A) the Executive will (subject to clause 16.3), be entitled to receive within 7 days of the Termination Date a net severance payment (the "**Severance Payment**") of an amount equal to:

(i) his latest Basic Net Annual Salary; and

(ii) the "Performance Bonus" (as defined in the applicable Bonus Scheme Agreement); and

(iii) any "Additional Bonus" (as defined in the applicable Bonus Scheme Agreement) that the Executive had been awarded for the year preceding the termination of the Executive's employment under this clause 16.1, prorated daily on the basis of the days for which the Executive was employed during the year of his termination; and

(iv) the cost to the Company of the provision of contractual benefits to the Executive for 12 months following the Termination Date.

To the extent that the above amounts exceed and cover the statutory severance payment provided by Greek labour law (pursuant to Law 2112/1920 in conjunction with Law 3198/1955), it is clarified that the Executive shall not be entitled to receive such statutory severance payment. In any event, it is expressly agreed and accepted by the Executive that any statutory severance entitlement under Greek labour law shall be set-off against the Severance Payment agreed in this clause 16.1.

(B) In addition, the Company shall use reasonable endeavors to procure that (i) the Executive receives the full benefit of any awards under the Stock

Incentive Plan (including, without limitation, any acceleration of vesting or extension of the post-termination exercise term of the Executive's awards as provided for in the applicable award agreement) and (ii) he is treated as being a "Good Leaver" (as defined in the relevant scheme(s) and subject always to the rules and provisions of such scheme(s)) for the purposes of any other applicable bonus or incentive scheme (besides the Stock Incentive Plan) which is operated by the Company, the Listed Company or any other Group Company from time to time and in which the Executive is participating as at the Termination Date.

16.2 For the avoidance of doubt, any Severance Payment payable under clause 16.1 shall be in addition to any payments, rights or benefits accrued in respect of services already provided, including, without limitation, (a) any Basic Net Annual Salary paid, and provision of contractual benefits, to the Executive up to the Termination Date, including any Basic Net Annual Salary paid, and provision of contractual benefits, to the Executive during any part of his contractual notice period which he is required to work or during which he is placed on garden leave; and (b) the payment of a pro-rated portion of the Executive's "Performance Bonus" (as defined in the applicable Bonus Scheme Agreement) on the basis of the days of the calendar year during which the Executive was employed up to the Termination Date; and (c) any other unpaid bonus in accordance with the terms of the Bonus Scheme Agreement or otherwise; and (d) any payment in lieu of notice made to the Executive pursuant to clause 3.3. If the Company is required to deduct or withhold Employment Taxes with respect to amounts paid under clauses 16.1 and 16.2, then the Company shall pay to the Executive, in addition to the Severance Payment and the amounts under this clause 16.2, such additional amount as is necessary to ensure that the net amount actually received by the Executive (after the deduction or withholding of Employment Taxes) equals the Severance Payment and the amounts in this clause 16.2.

16.3 The Company's obligations under clauses 16.1 are subject to and conditional on:

- (A) the Executive entering into, and complying with the terms of, a settlement agreement with the Company in a form reasonably satisfactory to the Company and the Executive pursuant to which the Executive will waive all claims that he may have against the Company, the Listed Company or any other Group Company arising from his employment or its termination and any directorships or other offices and their termination; and
- (B) the Executive's compliance with his material obligations under this Agreement (including, but not limited to, his obligations under clause 13). In the event that the Executive commits any breach of such material obligations, the Company shall be released from its obligations under clause 16.1, and in the event that the Executive commits any such breach following receipt of any payment pursuant to clause 16.1, or the Company becomes aware of any such breach following the Executive having received a payment under clause 16.1, an amount equal to the payment made under clause 16.1 shall be immediately repayable by the Executive to the Company as a debt.

- 16.4 In the event of a dispute between the parties as to whether there was Cause to terminate Executive's employment or there was Good Reason for Executive to resign, the full amount of termination payments under clause 16.1 shall be placed into escrow until such time that there is a judgment by a court of competent jurisdiction that Cause or Good Reason existed, or the parties otherwise agree in writing that the amount may be released.
- 16.5 In the event of death of the Executive, the Company's obligations hereunder shall automatically cease and terminate; provided, however, that within fifteen (15) days the Company shall pay to the Executive's heirs or personal representatives the Executive's basic salary and any unpaid bonuses (in accordance with the terms of the applicable Bonus Scheme Agreement) accrued to the date of death including, for the avoidance of doubt, the Severance Payment and any other amounts payable to the Executive under this Agreement as if the Executive had resigned for Good Reason; until the final determination of the identity of the heirs, the Company shall have the right to deposit any such amount with a third party escrow agent appointed by the Company or with the Greek Deposits and Loans Fund.

17. **SUMMARY TERMINATION**

- 17.1 The employment of the Executive may be terminated by the Company without notice or payment (to the fullest extent permitted under the law, in which case, for the avoidance of doubt, the provision of art. 5(1) second sentence of Law 3198/1955 shall be applicable) for "**Cause**", which shall mean:
- (A) the Executive is guilty of misconduct or commits any serious breach or non-observance of any of the provisions of this Agreement or of his obligations to the Company, the Listed Company or any other Group Company (whether under this Agreement or otherwise) or of any lawful acts or directions of the Board or relevant rules and/or codes issued by or on behalf of any Relevant Stock Exchange or is guilty of any continued or successive breaches or non-observance of any of such provisions, obligations, acts or directions, rules and/or codes, in spite of written warning to the contrary by the Board;
  - (B) the Executive is in the reasonable opinion of the Board of the Listed Company negligent or incompetent in the performance of his duties;
  - (C) the Executive is adjudged bankrupt;
  - (D) the Executive is guilty of any fraud or dishonesty or acts in any manner which in the reasonable opinion of the Board of the Listed Company brings or is likely to bring the Company, the Listed Company or any other Group Company into disrepute or is materially adverse to the interests of the Company, the Listed Company or any other Group Company;
  - (E) the Executive performs any act or omission which in the reasonable opinion of the Board of the Listed Company may seriously damage the interests of the Company, the Listed Company or any other Group



Company or willfully or negligently breaches any legislation or any regulation to which the Company, the Listed Company or other Group Company may be subject, which may result in any penalties being imposed on him or any Directors of the Company, the Listed Company or other Group Company.

- (F) the Executive becomes prohibited by law or is disqualified from being a director or officer of a company;
- (G) the Executive is convicted of any criminal offense by a court of competent jurisdiction (other than a minor offense for which a fine or other noncustodial penalty is imposed);
- (H) the Executive commits any act of deliberate discrimination or harassment on grounds of race, sex, disability, sexual orientation, religion or belief or age;
- (I) the Executive is adjudged of unsound mind or a patient for the purpose of any statute relating to mental health; or
- (J) the Executive commits any other act warranting summary termination at common law including (but not limited to) any act justifying dismissal without notice in the terms of the Company's generally-applicable Disciplinary Rules in place from time to time.

17.2 The Company shall not terminate Executive's employment for Cause unless Executive is provided written notice of the alleged grounds for Cause under sub-clauses (A), (B), (C), (E), or (J) and a thirty (30) day period to cure.

17.3 The termination of the Executive's employment hereunder for whatsoever reason shall not affect those terms of this Agreement which are expressed to have effect after such termination and shall be without prejudice to any accrued rights or remedies of the parties.

17.4 On the termination of the Executive's employment either summarily or otherwise, or at any other time in accordance with instructions given to him by the Board of the Listed Company, the Executive will immediately return to the Company all equipment, correspondence, records, specifications, software, models, notes, reports and other documents and any copies thereof and any other property belonging to the Company, the Listed Company or any other Group Company (including but not limited to credit cards, keys and passes) which are in the Executive's possession or under his control.

17.5 On the termination of the Executive's employment either summarily or otherwise, or at any other time in accordance with instructions given to him by the Board of the Listed Company, the Executive will immediately irretrievably delete any information relating to the business of the Company, the Listed Company or any other Group Company stored on any magnetic or optical disk or memory and all matter derived

from such sources which is in his possession or under his control outside the premises of the Company, the Listed Company or any other Group Company.

- 17.6 Upon the request of the Board of the Listed Company, the Executive will provide a signed written statement that he has fully complied with his obligations under clauses 17.4 and/or 17.5 and the Company may withhold any sums owing to the Executive on the Termination Date until the obligations in clause 17.4 and/or 17.5 have been complied with.

## 18. INVENTIONS AND IMPROVEMENTS

- 18.1 For the purposes of this clause 18 the following words and expressions shall have the following meanings:

**“Intellectual Property Rights”** means (i) copyright, patents, know-how, confidential information, database rights, and rights in trademarks and designs (whether registered or unregistered), (ii) applications for registration, and the right to apply for registration, for any of the same, and (iii) all other intellectual property rights and equivalent or similar forms of protection existing anywhere in the world;

**“Invention”** means any method, idea, concept, experimental work, theme, invention, discovery, process, model, formula, prototype, sketch, drawing, plan, composition, design, configuration, improvement or modification of any kind conceived, developed, discovered, devised or produced by the Executive alone or with one or more other employees of the Company (or the Listed Company or any other Group Company) during his employment and which pertains to or is actually or potentially useful to the activities from time to time of the Company (or the Listed Company or any other Group Company) or any product or service of the Company (or the Listed Company or any other Group Company).

- 18.2 The Executive shall promptly disclose and deliver to the Company in confidence full details of each Invention (whether or not it was made, devised or discovered during normal working hours or using the facilities of the Company or the Listed Company), to enable the Company to determine whether rights to such Invention vest in the Company, upon the making, devising or discovering of the same and shall at the expense of the Company give all such explanations, demonstrations and instructions as the Company may deem appropriate to enable the full and effectual working, production and use of the same.
- 18.3 The Executive hereby assigns (in so far as title has not automatically vested in the Company through the Executive’s employment) to the Company with full title guarantee by way of future assignment all copyright, database right, design right and other similar rights for the full terms (including any extension or renewals thereof) thereof throughout the world in respect of all works, designs or materials (including, without limitation, source code and object code for software) originated, conceived, written or made by the Executive during the period of his employment (except only those works or designs originated, conceived, written or made by the Executive wholly outside his normal working hours which are wholly unconnected with any business activity undertaken or planned to be undertaken by the Company, the Listed

Company or any other Group Company) to hold unto the Company absolutely. The aforementioned assignment shall include the right to sue for damages and/or other remedies in respect of any infringement (including prior to the date hereof).

- 18.4 The Executive hereby irrevocably and unconditionally waives in favor of the Company for any work in which copyright or design right is vested in the Company whether by this clause 18 or otherwise.
- 18.5 The Executive shall, without additional payment to him (except to the extent provided by applicable law) at the request and expense of the Company and whether or not during the continuance of his employment, promptly execute all documents and do all acts, matters and things as may be necessary or desirable to enable the Company or its nominee to obtain, maintain, protect and enforce any Intellectual Property Right vested in the Company in any or all countries relating to the Intellectual Property Right and to enable the Company to exploit any Intellectual Property Right vested in the Company.
- 18.6 The Executive shall not do anything (whether by omission or commission) during his employment or at any time thereafter to affect or imperil the validity of any Intellectual Property Right obtained, applied for or to be applied for by the Company, the Listed Company or their nominees, and in particular the Executive shall not disclose or make use of any Invention which is the property of the Company or the Listed Company without the prior written consent of the Company. The Executive shall during or after the termination of his employment with the Company, at the request and expense of the Company, provide all reasonable assistance in obtaining, maintaining and enforcing such Intellectual Property Right or in relation to any proceeding relating to the Company's or the Listed Company's right, title or interest in any such Intellectual Property Right.
- 18.7 Without prejudice to the generality of the above clauses, the Executive hereby irrevocably authorizes the Company to appoint a person to be his attorney in his name and on his behalf to execute any documents and do any acts, matters or things as may be necessary for or incidental to grant the Company the full benefit of the provisions of this clause 18.
- 18.8 The obligations of the Executive under this clause 18 shall continue to apply after the termination of his employment (howsoever terminated).
- 18.9 For the avoidance of doubt, nothing in this Agreement shall oblige the Company (or the Listed Company or any other Group Company) to seek protection for or exploit any Intellectual Property Right.
- 18.10 Nothing in this Agreement shall limit in any way the permitted activities under the Non-Compete Agreement. In the event of a conflict, the Non-Compete Agreement shall prevail.

19. **GRIEVANCE AND DISCIPLINARY PROCEDURES**

- 19.1 In the event of the Executive wishing to seek redress of any grievance relating to his employment he should lay his grievance before the Board or the board of directors of the parent company of any group of which the Company or the Listed Company is a member from time to time (in this clause 19, "Ultimate Board") in writing, who will afford the Executive the opportunity of a full hearing before the board or a committee of the board or the Ultimate Board (as appropriate) whose decision on such grievance shall be final and binding.
- 19.2 The Company's and the Listed Company's usual disciplinary procedures do not apply to the Executive. In the event that any disciplinary action is to be taken against the Executive, any hearing in respect thereof will be conducted by such director of the Company, the Listed Company or the parent company of any group of which the Company or the Listed Company is a member from time to time as the Board or the Ultimate Board may in its reasonable discretion nominate. If the Executive seeks to appeal against any disciplinary action taken against him he should do so to the Ultimate Board submitting full written grounds for his appeal to the Chairman of the Ultimate Board within 7 days of the action appealed against. The decision of the Ultimate Board or a delegated committee thereof shall be final and binding. For the avoidance of doubt, the Executive has no contractual right to either a disciplinary hearing or appeal.
- 19.3 The Company may in its absolute discretion suspend the Executive from some or all of his duties (and if applicable, from the Board) and/or require him to remain away from work during any investigation conducted into an allegation relating to the Executive's conduct or performance. During such period, the Executive's salary will continue to be paid and he will continue to be entitled to all benefits provided to him, including participating in any relevant bonus or share option schemes subject always to the rules of those schemes.

20. **GENERAL**

- 20.1 No failure or delay by either party in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof nor shall any single or partial exercise by either party of any right, power or privilege hereunder preclude any further exercise thereof or the exercise of any other right, power or privilege.
- 20.2 The Executive shall have no claim against the Company, the Listed Company or any other Group Company in respect of the termination of his employment hereunder in relation to any provision in any Stock Incentive Plan which has the effect of requiring the Executive to sell, transfer or give up any shares, securities, options or rights issued to him thereunder at any price or which causes any options or other rights granted to him thereunder to become prematurely exercisable or to lapse by reason of his termination or because he has given or received notice of termination.

- 20.3 Any term of any collective agreements which may affect adversely (against the Executive) the terms and conditions of the employment of the Executive hereunder shall not be applicable.
- 20.4 For the avoidance of doubt any payments made to or other benefits provided to the Executive or his family which are not expressly referred to in this Agreement shall be regarded as payments or benefits provided in the ordinary course of business of the Company and, unless express notice of revocation of such payments or benefits is given to the Executive, they shall be deemed to form part of the Executive's contract of employment.
- 20.5 If any clause or provision in this Agreement is found by a court of competent jurisdiction or other competent authority to be invalid, unlawful or unenforceable then such clause or provision shall be severed from the remainder of the Agreement or clause and that remainder shall continue to be valid and enforceable to the fullest extent permitted by law. In that case, the parties shall negotiate in good faith to replace any invalid, unlawful or unenforceable clause or provision with a suitable substitute clause or provision which maintains as far as possible the purpose and effect of this Agreement.
- 20.6 This Agreement may be executed in any number of counterparts, each of which when executed, shall be an original, and all the counterparts together shall constitute one and the same instrument. Delivery of an executed signature page of a counterpart by facsimile transmission or by electronic mail in Adobe TM Portable Document Format (PDF), shall take effect as delivery of an executed counterpart of this Agreement.
- 20.7 No term of this Agreement is enforceable by a third party who is not a party to this Agreement.
- 20.8 No amendment, modification or waiver of this Agreement or any of its provisions shall be binding upon the parties hereto unless made in writing and duly signed by the parties.
- 20.9 Any amendment or change on the applicable law including without limitation tax and social security laws occurring after the date of this Agreement which may adversely affect any amount payable to the Executive by the Company under this Agreement, shall be for the Company's account in its capacity as employer which shall be obliged to gross up any such amount payable to the Executive accordingly so that the net amount received by the Executive from time to time remains the same.

21. **NOTICES**

- 21.1 Without prejudice to any other mode of service provided under the law, any notice or communication given or required under this Agreement may be served by personal delivery or by leaving the same at or by sending the same through the recognized international overnight delivery service in the case of the Company to its registered office from time to time and in the case of the Executive to his aforesaid address or to

the address provided from time to time by the Executive to the Company for the purposes of its employment records.

- 21.2 Any notice sent by recognized international overnight delivery service shall be deemed to have been served 3 business days after the time of depositing such notice with the recognized international overnight delivery service for next day delivery.
- 21.3 **Process agent (antiklitos).** The Company irrevocably appoints Ms. Lida Papadi, presently at 3-5, Menandrou Street, Kifisia, Athens, 14561 Greece, to act as its agent to receive and accept on its behalf any process or other document relating to any proceedings in the Greek courts which are connected with this Agreement.

22. **EXTENT AND SUBSISTENCE OF AGREEMENT**

This Agreement supersedes all other agreements other than those expressly referred to in this Agreement whether written or oral between the Company and the Executive relating to the employment of the Executive. The Executive acknowledges and warrants to the Company that he is not entering into this Agreement in reliance upon any representation not expressly set out herein.

23. **GOVERNING LAW AND JURISDICTION**

- 23.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with Greek law including the collective bargaining agreement for employees in Greek ship management companies dated 1 August 2018 (“CBA”). In case of conflict between the terms of this Agreement and the provisions of Greek law including those of the CBA, this Agreement shall prevail to the extent that its terms are more favorable for the Executive.
- 23.2 The parties agree to submit to the exclusive jurisdiction of the Courts of Piraeus, Greece as regards any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

IN WITNESS whereof a duly authorized representative of the Company has executed this Agreement and the Executive has executed this Agreement as his Deed on the date of this Agreement.

**EXECUTED** by the Company

acting by Anastasios Psaropoulos

) /s/ Anastasios Psaropoulos  
)

the said **Georgios Giouroukos**

) /s/ Georgios Giouroukos  
)

**COUNTERSIGNED, AGREED and ACCEPTED** by the Listed Company

acting by Ian Webber  
Thomas Lister

) /s/ Ian Webber  
) /s/ Thomas Lister

## **Exhibit A**

### **Leadership and strategic direction**

- To lead the Board of the Company and the Listed Company.
- To provide direct line management for the Listed Company Group CEO, CFO and CCO.
- To lead and manage the executive management team of the Company and the Listed Company.
- Develop a strategy and to monitor implementation of the strategy in discussion with the Listed Company Group CEO, CFO and CCO.
- To take the chair at general meetings, board meetings, nomination committee meetings and strategy meetings of the Company and the Listed Company.
- To represent the Company and the Listed Company at the highest level including to the government, regulatory authorities, the media, prospective investors, company stakeholders and the general public.
- To, from time to time at Executive's discretion and subject to the nominating and governance committee's charter, propose to the nominating and governance committee suitable candidates for senior executive appointments, and to consult with the board and the compensation committee on senior executive compensation.

### **Operations and controls**

- To work with the Listed Company Group CEO, CFO and CCO to:
  - Search for investments for the company to assist growth (vessels, fleet acquisitions).
  - Search for possible M&As.
  - Search for finance of new acquisitions or refinance of existing indebtedness.
  - Initiate equity or debt raising.
  - Perform meetings with investors in respect of equity/debt raisings.
  - Perform non-deal roadshows with respect to investor relations.
  - Participate in Company and Listed Company quarterly result conference calls and investor calls.
  - Present the Company and Listed Company in industry events.
  - Communicate with shareholders.



- o Monitor budget and performance of the Company and the Listed Company.
- o Monitor the efficient operation of the Company and the Listed Company.

### **Reporting**

- To supervise with the Listed Company Group CEO, CFO and CCO to:
  - o Report to the Board regularly on the operation of the Company's and Listed Company's businesses both at board meetings and at other times.
  - o Provide such information to the Board as they may require in order for the board to assess the performance of the business and the achievement of the agreed strategy and budget.

### **Board meetings**

- To plan a schedule, set agendas and conduct board meetings of the Company and the Listed Company.

### **Delegation**

- To coordinate with the Board to focus on the key issues facing the Company and the Listed Company.
- To coordinate with the Board to delegate appropriately to its key committees.
- To coordinate with the Board to set appropriate levels of authority for senior executives.

### **Board composition**

- To coordinate with the Board and nominating and governance committee, subject to the Company's and the Listed Company's articles of incorporation and the nominating and governance committee's charter, in establishing processes for the appointment, re-election, retirement, succession and, if necessary, removal of directors.
- To coordinate with the Board in establishing a succession plan for all directors and key executives.

### **Board performance**

- To coordinate with the Board to oversee and evaluate the implementation of the Company's and the Listed Company's strategy, policies and business plans.



**DATED 1<sup>st</sup> AUGUST 2019**

GSL ENTERPRISES LTD.

and

Anastasios Psaropoulos

**EMPLOYMENT AGREEMENT**

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## EMPLOYMENT AGREEMENT

DATE

1 AUGUST 2019

### PARTIES

- (1) GSL ENTERPRISES LTD., whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands, MH 969600 and has established a branch office in Greece pursuant to the provisions of art. 25 of Law 27/1975 (former law 89/67) at 9, Irodou Attikou Street, Kifisia, Athens, 14561 Greece (the “**Company**”); and
- (2) ANASTASIOS PSAROPOULOS, an individual residing at 56, Asklipiou Street, Glyfada, Athens 16675, Greece, with Greek tax identification number 118731373, issued by the Greek tax office of Glyfada, Athens (the “**Executive**”).

**WHEREAS**, the Executive has agreed, as an employee of the Company in a senior management position, to oversee and participate in the provision of services to the Company on the terms of this Employment Agreement (the “**Agreement**”) particularly given his appointment as Chief Financial Officer and Treasurer of the parent company Global Ship Lease, Inc., whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands, MH 969600 and the address of principal executive offices is Portland House, Stag Place, London SW1E 5RS, United Kingdom and whose common stock has been registered pursuant to Section 12(b) of the United States Securities Exchange Act of 1934, as amended, and is listed on the New York Stock Exchange under the trading symbol “GSL”, (the “**Listed Company**”).

### OPERATIVE PROVISIONS

#### 1. INTERPRETATION

1.1 In this Agreement the following words and expressions shall have the following meanings:

“**the Board**” means the board of directors of the Company or the Listed Company, as the context may require; references to the “**Board of the Listed Company**” shall mean the Board of Directors of Global Ship Lease, Inc. or if appropriate the compensation committee thereof;

“**Change in Control Transaction**” means the consummation, following the date of the Merger (as defined below), of any of the following transactions:

- a. the acquisition, directly or indirectly, by any individual, partnership, firm, company, association, trust, unincorporated organization or other entity (a “**Person**”), or any Persons acting as a “**group**” within the meaning of Section 13(d)(3) of the
-

Securities Exchange Act of 1934, as amended (the “Exchange Act”) of beneficial ownership (within the meaning of Rule 13d-3 of the Exchange Act) (other than the Listed Company or a person that directly or indirectly controls, is controlled by, or is under common control with, the Listed Company) of securities of the Listed Company representing more than 50% of the total combined voting power of the Listed Company’s then outstanding securities entitled to vote in the election of the directors of the Listed Company (the “Voting Shares”);

- b. the Listed Company disposing of all or substantially all of its assets;
- c. 10% or more of the value of the assets of the Listed Company, or the Voting Shares of the Listed Company are about to be transferred, or have been transferred, because of any taking, seizure, or defeasance as a result of, or in connection with (i) nationalization, expropriation, confiscation, coercion, force or duress, or other similar action under the laws of the Republic of the Marshall Islands, or (ii) the imposition by the Republic of the Marshall Islands of a confiscatory tax, assessment, or other governmental charge or levy;
- d. the merger of the Listed Company with or into another corporation or any other transaction in which securities possessing more than 50% of the total combined voting power of the Listed Company are transferred to a person or persons different from the persons holding those securities immediately prior to such transaction; or
- c. the Board by resolution duly adopted by the affirmative vote of a simple majority of the votes cast by the Board determines that for the purposes of this Agreement, a Change in Control Transaction has occurred; or
- f. there is a change in boardroom control of the Listed Company. A change in boardroom control for the purpose of this clause shall mean a change in the directors of the board of the Listed Company such that the majority of directors on the Board following such change are directors who were not directors immediately following the closing of the Mergers.

A transaction shall not constitute a Change in Control Transaction if its sole purpose is to change the state of the Listed Company’s incorporation or to create a holding company that will be owned in substantially the same proportions by the persons who held the Listed Company’s securities immediately before such transactions.

“**Good Reason**” means (a) the assignment to the Executive by the Company or the Listed Company of any duties or responsibilities inconsistent with the Executive’s position, including but not limited to, any change in title the effect of which results in the Executive having a lesser status than Chief Financial Officer in the Listed Company, (b) a reduction in the Executive’s base salary, (c) any change in location of the Company’s principal administrative office or the Executive’s normal place of work to be outside of Greece, (d) a Change in Control

Transaction, (e) a Material Transaction or (f) any unilateral adverse/unfavourable variation of the employment terms of the Executive by the Company as defined by Greek labour law;

“**Group Company**” means the Company, the Listed Company, any company of which the Listed Company is a subsidiary (its holding company) and any other subsidiaries of the Listed Company or such holding company;

“**Material Transaction**” means any merger or acquisition (which is not a Change in Control Transaction) which is determined by the Board acting reasonably and in good faith to be a material merger or acquisition having a material impact on the ownership structure of the Group Companies;

“**Merger Agreement**” means the Agreement and Plan of Merger, dated as of 29 October, 2018, by and among the Listed Company, Poseidon Containers Holdings, LLC, K&T Marine, LLC and the other parties named therein.

“**Merger**” means the consummation of the mergers contemplated under the Merger Agreement;

“**Relevant Stock Exchange**” means the New York Stock Exchange and/or any other stock exchange, recognized investment exchange or automated quotation system on which any Group Company or any of their securities, as applicable, is listed, dealt in or admitted for trading;

“**Stock Incentive Plan**” means any outstanding equity incentive plan maintained by a Group Company;

“**Subsidiary Company**” means any Group Company other than the Company and the Listed Company;

“**Termination Date**” means the date of the termination of the employment of the Executive hereunder, howsoever caused;

1.2 In this Agreement (unless the context otherwise requires):

- (A) any reference to any statute or statutory provision shall be construed as including a reference to any modification, re-enactment or extension of such statute or statutory provisions of Greek labour law or the law of any other state as may be applicable in the context of the Executive’s employment, for the time being in force or to any subordinate legislation made under the same;
- (B) any reference to a clause is to a clause of this Agreement;
- (C) the expression “directly or indirectly” means (without prejudice to the generality of the expression) either alone or jointly with or on behalf of any other person, firm or body corporate and whether on his own account or in partnership with another or others or as the holder of any interest in

or as officer, employee or agent of or consultant to any other person, firm or body corporate.

- 1.3 The headings contained in this Agreement are for convenience only and do not form part of and shall not affect the construction of this Agreement or any part of it.

## 2. APPOINTMENT

- 2.1 The Company has appointed the Executive and the Executive agrees to serve the Company as director and Vice-President of the Company and shall report to the Board of the Listed Company. The Executive has also been appointed as the Chief Financial Officer and Treasurer of the Listed Company as of 20 November 2018.
- 2.2 The Executive warrants that by virtue of entering into this Agreement he will not be in breach of any express or implied terms of any contract with or of any other obligation to any third party which are binding upon him.

## 3. TERM AND NOTICE

- 3.1 The terms of this Agreement and the provision of services to the Company during the course of the Executive's employment by the Company shall commence on the date of this Agreement and, subject to the provisions of clause 17, continue for an indefinite term unless and until terminated by:
- (A) the Company giving to the Executive not less than 12 months' written notice; or
  - (B) the Executive giving to the Company not less than 6 months' written notice, unless Executive's resignation is for Good Reason in which case the Executive shall have given to the Company not less than 14 days' written notice.
- 3.2 The Executive's employment may only be terminated by the Company under clauses 3.1(A) and 17 or otherwise, or placed on paid leave under clause 19.3, with (a) the affirmative vote of the majority of the members of the Board of the Listed Company; or (b) a decision of the Executive Chairman of the Listed Company.
- 3.3 The Company reserves the right at any time, in its absolute discretion but always subject to clause 3.2, to terminate the Executive's employment by paying to the Executive a sum equal to his salary and contractual benefits for the relevant period of notice specified in clause 3.1, simultaneously with the severance payment provided in clause 16.1(A) and the payment of any other amount as provided in clause 16.2.
- 3.4 It is expressly agreed that the terms of this Agreement relating to the termination of the employment (including without limitation under clauses 3.1(A), 3.2, 3.3 and 17) shall apply in addition to any rights or benefits provided by the applicable provisions of Greek labour law (including Law 2112/1920 in conjunction with Law 3198/1955), as in force from time to time.



#### 4. DUTIES

4.1 The Executive shall during the continuance of his employment:

- (A) exercise such powers and perform such duties in relation to the business of the Company, of the Listed Company or of any Subsidiary Company as may from time to time be vested in or assigned to him by the Board, provided always that such new assignments do not constitute a unilateral adverse/unfavourable variation of the employment terms;
- (B) well and faithfully serve the Company, the Listed Company and any relevant Subsidiary Companies to the best of his ability and carry out his duties with all due care, skill and ability, and use his best endeavors to promote and maintain their interests and reputation;
- (C) be a director of the Company and act as Vice-President thereof, and remain in such capacities without any additional remuneration, (other than the amounts specified in this Agreement);
- (D) act as Chief Financial Officer and Treasurer of the Listed Company, and remain in such capacities without any additional remuneration, (other than the amounts specified in this Agreement);
- (E) become a director of Global Ship Lease Services Limited and remain in such capacity without any additional remuneration, (other than the amounts specified in this Agreement); and
- (F) have responsibility for the duties set forth on Exhibit A hereto.

4.2 The Executive will serve the Company, the Listed Company and any Subsidiary Company in such capacity as the Board shall determine from time to time. In performance of his duties the Executive shall:

- (A) normally perform his duties in 3-5 Menandrou Street, Kifissia, Athens, 14561 Greece or in 9, Irodou Attikou Street, Kifisia, Athens, 14561 Greece where the Company has an established office pursuant to the provisions of art. 25 of Law 27/1975 (former law 89/67). However, due to the nature of the business of the Company and the Listed Company and the Executive's managerial position, the Executive agrees that he shall be required to travel and he may be required from time to time to work at other locations possibly in other countries for temporary periods as the position of the Executive may from time to time reasonably require, without such requirement constituting a unilateral adverse variation of the employment terms. The Company shall give reasonable notice of such temporary changes of place of work to the Executive;
- (B) in all respects conform to and comply with lawful directions and regulations given and made by the Board; and

(C) in all respects conform to and comply with all relevant rules and/or codes issued by or on behalf of any Relevant Stock Exchange.

4.3 The Executive shall immediately upon the Company's request supply any and all information which the Listed Company or any other Group Company may reasonably require in order to be able to comply with any statutory or regulatory provision or stock exchange rule or requirement of any Relevant Stock Exchange.

4.4 The Executive shall comply with the Company's, the Listed Company's or any other Group Company's health and safety procedure from time to time in force.

## 5. SALARY

5.1 The Company shall pay to the Executive by way of remuneration for his services under this Agreement a basic net salary per annum of US Dollars Eighty Thousand (\$80,000) or the equivalent amount in Euros, at the option of the Executive (the "**Basic Net Annual Salary**") inclusive of any director's fees payable to him by the Company or any other Group Company. If the Company is required to deduct or withhold Employment Taxes (as defined below) with respect to the Basic Net Annual Salary, then the Company shall pay to the Executive, in addition to the Basic Net Annual Salary payment, such additional amount as is necessary to ensure that the net amount actually received by the Executive (after the deduction or withholding of Employment Taxes) equals the Basic Net Annual Salary. As used herein, "**Employment Taxes**" means any applicable withholdings or deductions for, or on account of, any present or future income taxes, employee national insurance or social security contributions or other statutory payments of any nature due in respect of his Basic Net Annual Salary and any other benefits provided to him by the Company, the Listed Company or any other Group Company provided such withholdings or deductions are required by applicable law. The Basic Net Annual Salary shall accrue from day to day and shall be payable in arrears on a 14-month basis in accordance with the applicable provisions of Greek employment law (and shall be paid pro rata where the Executive is only employed during part of a month). The Basic Net Annual Salary shall be reviewed by (with the outcome of such review being at the absolute discretion of) the Board of the Listed Company on or about 1 January in each calendar year with the first such review to take place as at 1 January 2020 without commitment to increase. Executive's Basic Net Annual Salary shall not be decreased.

5.2 The Company shall be entitled to deduct from any sums payable to the Executive (including salary) such sums as the Executive notifies the Company in writing to pay directly into any personal pension scheme of the Executive which is additional to the State's pension scheme through national insurance contributions.

5.3 The Executive due to his senior managerial position, is not subject to the provisions of Greek labour law which are incompatible with the special position of supervision, management and trust he possesses. More specifically, he is not subject to the provisions relating to and will not be entitled to any additional remuneration or

payment (unless as and to the extent otherwise provided in this Agreement including in particular without limitation clauses 5, 6, 7 and 11) in respect of working hours, overtime (yperergasia), overtime exceeding maximum working hours (yperoria), work at night, work on any banking or public holiday, work on the sixth day of the week or on Sundays, Christmas or Easter bonuses, annual leave allowance etc. In any event, if any claim in respect of the above exists or arises, or if there is any additional right, amount or benefit provided by any collective bargaining agreement, such right or claim shall be set off with the amounts that the Executive receives under this Agreement to the fullest extent permitted by the law.

## 6. EXPENSES

The Company shall reimburse the Executive all reasonable traveling, hotel, entertainment and other out of pocket expenses incurred by him in or about the performance of his duties under this Agreement subject to his compliance with the Company's and the Listed Company's then current guidelines, if any, relating to expenses and to the production, if required, of receipts, vouchers or other supporting documents.

## 7. BONUS SCHEME

The Executive will be entitled to participate in any contractual bonus scheme or schemes established from time to time by the Company, the Listed Company or any other Group Company for executives of equivalent status to the Executive, subject always to the rules of those schemes. Any agreement which shall contractually determine the terms pursuant to which the Executive shall be entitled to bonus payments out of the profits of the Company in accordance with the provisions of Law 4111/2013, art. 43 para.5 shall be hereafter referred to as the "**Bonus Scheme Agreement**".

## 8. SHARE SCHEMES

The Executive will be entitled to participate in such share schemes as the Company or the Listed Company or any other Group Company may operate upon such terms as the Board may from time to time determine and subject always to the rules and eligibility requirements of the scheme or schemes from time to time in force.

## 9. HEALTH, LIFE AND MEDICAL INSURANCE

9.1 The Executive shall during his employment be entitled to participate in any Group Company's:

- (A) permanent health insurance scheme; and
- (B) arrangements for private medical treatment or medical health insurance including spouse or partner or anyone living as such and dependent children under the age of 21 years; and
- (C) life assurance (together the "**Insurance Schemes**") operated from time to time by or for the Listed Company for the benefit of employees of the

Listed Company or any other Group Company of equivalent status to the Executive, subject to any applicable rules and conditions of the Insurance Schemes. To the extent that there is any disparity between the rules and conditions of the relevant Insurance Scheme and the terms of this Agreement the relevant scheme rules and conditions shall prevail. The Listed Company shall not have any liability to pay any benefit to the Executive (or any family member) under any Insurance Scheme unless it receives payment of the benefit from the insurer under the scheme and shall not be responsible for providing the Executive (or any family member) with any benefit under an Insurance Scheme in the event that the relevant insurer refuses for whatever reason to pay or provide or to continue to pay or provide that benefit to the Executive (or family member).

9.2 Any Insurance Scheme which is provided for the Executive is also subject to the Listed Company's right to alter the cover provided or any term of that scheme or to cease to provide (without replacement) the scheme at any time if in the opinion of the Board (after the Executive has been examined by a medical practitioner nominated by the insurers or by the Listed Company) the state of the Executive's health is or becomes such that the Listed Company is unable to insure the benefits under the scheme at the normal premiums applicable to a person of the Executive's age.

9.3 No contracting out certificate is in force in relation to this employment.

## 10. ILLNESS

10.1 In the event of illness or other incapacity beyond his control as a result of which he is unable to perform his duties, the Executive shall remain entitled to receive his salary in full for any continuous period of 3 months or an aggregate period of 90 days' absence in any consecutive 12 month period subject to:

- (A) compliance with the Company's procedures relating to sickness notification, statutory sick pay and self-certification to cover absence from work due to sickness or other incapacity and to the provision of medical certificates and/or (at the Company's discretion) undergoing a medical examination by a doctor appointed by the Company. The Executive shall co-operate in ensuring the prompt delivery of such report to the Company and authorize his own medical practitioner to supply all such information as may be required by that doctor and, if so requested by the Company, authorize his medical practitioner to disclose to the Company his opinion of the Executive's state of health;
- (B) a deduction (at the Company's discretion) from his salary of an amount or amounts equal to any statutory sick pay or social security benefits to which the Executive is entitled; and

- (C) a deduction (at the Company's discretion) from his salary of an amount or amounts equal to any payment made to the Executive under any health insurance arrangements effected from time to time by the Company and/or any Group Company on his behalf.

**11. VACATION DAYS**

- 11.1 The Executive, despite his senior management position, shall be entitled to 25 working days of vacation (in addition to the official public holidays in Greece) in each calendar year commencing on 1 January in each year (which shall accrue on a monthly basis). Holidays shall be taken at such times as are reasonable and convenient having regard to the requirements of the Company's business.
- 11.2 If at the end of the calendar year the Executive has accrued vacation entitlement which he has not used he shall be entitled to carry forward an absolute maximum of up to 10 days into the following calendar year.
- 11.3 The Company reserves the right, at its absolute discretion, to require the Executive to take any outstanding vacation days during any notice period.
- 11.4 On termination of the Executive's employment (howsoever occasioned), if the Executive has taken more or less than his annual vacation entitlement an appropriate adjustment shall be made to any payment of salary or benefits from the Company to the Executive. In this event the calculation shall be made on the basis that each day of vacation is worth 1/260 of his basic salary as set out in clause 5.1.

**12. [INTENTIONALLY OMITTED]**

**13. CONFIDENTIAL AND BUSINESS INFORMATION**

- 13.1 In addition to and without prejudice to the Executive's common law obligations to keep information secret, the Executive shall not (except for the purpose of performing his duties hereunder or unless ordered to do so by a court of competent jurisdiction) either during his employment or after its termination directly or indirectly use, disclose or communicate Confidential and Business Information and he shall use his best endeavors to prevent the improper use, disclosure or communication of Confidential and Business Information:
  - (A) concerning the business of the Company, the Listed Company or any other Group Company and which comes to the Executive's attention during the course of or in connection with his employment or provision of services to the Company, the Listed Company or any other Group Company from any source within the Company, the Listed Company or any other Group Company; or
  - (B) concerning the business of any person having dealings with the Company, the Listed Company or any other Group Company and which is obtained in circumstances in which the Company, the Listed Company or any other

Group Company is subject to a duty of confidentiality in relation to that information.

13.2 For the purposes of clause 13.1, Confidential and Business Information means:

- (A) any information of a confidential nature (whether trade secrets, other private or secret information including secrets and information relating to corporate strategy, business development plans, product designs, intellectual property, business contacts, terms of business with customers and potential customers and/or suppliers, annual budgets, management accounts and other financial information); and/or
- (B) any confidential report or research undertaken by or for the Company, the Listed Company or any other Group Company before or during the course of the Executive's employment; and/or
- (C) lists or compilations of the names and contact details of the individuals or clients and counterparts with whom the Company, the Listed Company or any other Group Company transacts business; and/or
- (D) the previous 18 months' financial results of any individual part of the business of the Company, the Listed Company or any other Group Company; and/or
- (E) details of all computer systems and/or data processing or analysis software developed by the Company, the Listed Company or any other Group Company; and/or
- (F) details of the requirements, financial standing, terms of business and dealings with any Company, the Listed Company or any other Group Company of any client of the Company, the Listed Company or any other Group Company; and/or
- (G) contact details of all employees and directors of the Company, the Listed Company or any other Group Company together with details of their remuneration and benefits; and/or
- (H) information so designated by the Company, the Listed Company or any other Group Company or which to the Executive's knowledge has been supplied to the Company, the Listed Company or any other Group Company subject to any obligation of confidentiality.

13.3 The restrictions contained in this clause 13 shall cease to apply with respect to any information which would otherwise have been Confidential and Business Information but which comes into the public domain or is otherwise in the possession of Executive's affiliates other than through an unauthorized disclosure by the Executive or a third party.

13.4 The obligations of the Executive under this clause 13 shall continue to apply after the termination of the Executive's employment (howsoever terminated).

14. **DATA PROTECTION**

14.1 The parties hereby confirm and agree that they are committed to complying with the principles and requirements of the EU General Data Protection Regulation (GDPR).

14.2 The Executive hereby acknowledges that:

- (A) the Company will collect and process information about the Executive, such as the Executive's name and contact details as well as more sensitive information, for various purposes in connection with the Executive's employment, including to manage benefits and payments, to manage expenses, to manage recruitment and on-boarding, to manage absences, for security purposes, to handle claims and disciplinary actions, to monitor performance and use of the IT systems, to conduct certain background checks and to comply with the Company's legal obligations;
- (B) the Company will collect from the Executive and store personal data about the Executive's next of kin, such as their name and contact details, for use in emergency situations, and the Executive agrees that he has informed such individuals that their details have been provided to the Company;
- (C) the Company may pass the Executive's information to third parties such as the Executive's previous employers, companies for which the Executive provided services, public authorities, law enforcement agencies, fraud prevention agencies and regulators who use it in connection with the purposes set out above. The Company may also pass the Executive's information to third party agents who handle it on behalf of the Company; and/or
- (D) depending on the circumstances, the Company's use of personal data may involve a transfer of data outside the EU (and the European Economic Area).

14.3 The Listed Company's Privacy Notice, which shall also be applicable to the employment of the Executive by the Company gives more details of the personal information about the Executive and the Executive's next of kin that the Company collects and processes. The Executive confirms that he has read the notice. The Privacy Notice does not form part of the terms and conditions of the Employment, and the Company reserves the right to amend it from time to time and to update the uses of personal data listed above and in the Privacy Notice.

14.4 The Executive shall comply with Company, the Listed Company and other Group Company policies relating to data privacy when handling personal data in the course of the employment, including personal data relating to any employee, customer, client, supplier or agent of the Company. The Executive will also comply with the

Company, the Listed Company and other Group Company policies from time to time in place relating to IT and communications systems, use of social media and other policies as included from time to time.

14.5 Failure to comply with Company, the Listed Company and other Group Company policies relating to data privacy or any of the policies listed above in clause 14.3 may be dealt with under the Company's disciplinary procedure and, in serious cases, may be treated as gross misconduct leading to summary dismissal.

15. **[INTENTIONALLY OMITTED]**

16. **TERMINATION**

16.1 If the Executive resigns for Good Reason, or the Company terminates Executive's employment for any reason whatsoever other than for Cause (as defined below in clause 17.1):

(A) the Executive will (subject to clause 16.3), be entitled to receive within 7 days of the Termination Date a net severance payment (the "**Severance Payment**") of an amount equal to:

(i) his latest Basic Net Annual Salary; and

(ii) the "Performance Bonus" (as defined in the applicable Bonus Scheme Agreement); and

(iii) any "Additional Bonus" (as defined in the applicable Bonus Scheme Agreement) that the Executive had been awarded for the year preceding the termination of the Executive's employment under this clause 16.1, prorated daily on the basis of the days for which the Executive was employed during the year of his termination; and

(iv) the cost of the Company of the provision of contractual benefits to the Executive for 12 months following the Termination Date.

To the extent that the above amounts exceed and cover the statutory severance payment provided by Greek labour law (pursuant to Law 2112/1920 in conjunction with Law 3198/1955), it is clarified that the Executive shall not be entitled to receive such statutory severance payment. In any event, it is expressly agreed and accepted by the Executive that any statutory severance entitlement under Greek labour law shall be set-off against the Severance Payment agreed in this clause 16.1.

(B) In addition, the Company shall use reasonable endeavors to procure that (i) the Executive receives the full benefit of any awards under the Stock Incentive Plan (including, without limitation, any acceleration of vesting or extension of the post-termination exercise term of the Executive's awards as provided for in the applicable award agreement) and (ii) he is



treated as being a “Good Leaver” (as defined in the relevant scheme(s) and subject always to the rules and provisions of such scheme(s)) for the purposes of any other applicable bonus or incentive scheme (besides the Stock Incentive Plan) which is operated by the Company, the Listed Company or any other Group Company from time to time and in which the Executive is participating as at the Termination Date.

- 16.2 For the avoidance of doubt, any Severance Payment payable under clause 16.1 shall be in addition to any payments, rights or benefits accrued in respect of services already provided, including, without limitation, (a) any Basic Net Annual Salary paid, and provision of contractual benefits, to the Executive up to the Termination Date, including any Basic Net Annual Salary paid, and provision of contractual benefits, to the Executive during any part of his contractual notice period which he is required to work or during which he is placed on garden leave; and (b) the payment of a pro-rated portion of the Executive’s “Performance Bonus” (as defined in the applicable Bonus Scheme Agreement) on the basis of the days of the calendar year during which the Executive was employed up to the Termination Date; and (c) any other unpaid bonus in accordance with the terms of the Bonus Scheme Agreement or otherwise; and (d) any payment in lieu of notice made to the Executive pursuant to clause 3.3. If the Company is required to deduct or withhold Employment Taxes with respect to amounts paid under clauses 16.1 and 16.2, then the Company shall pay to the Executive, in addition to the Severance Payment and the amounts under this clause 16.2, such additional amount as is necessary to ensure that the net amount actually received by the Executive (after the deduction or withholding of Employment Taxes) equals the Severance Payment and the amounts in this clause 16.2.
- 16.3 The Company’s obligations under clauses 16.1 are subject to and conditional on:
- (A) the Executive entering into, and complying with the terms of, a settlement agreement with the Company in a form reasonably satisfactory to the Company and the Executive pursuant to which the Executive will waive all claims that he may have against the Company, the Listed Company or any other Group Company arising from his employment or its termination and any directorships or other offices and their termination; and
  - (B) the Executive’s compliance with his material obligations under this Agreement (including, but not limited to, his obligations under clause 13). In the event that the Executive commits any breach of such material obligations, the Company shall be released from its obligations under clause 16.1, and in the event that the Executive commits any such breach following receipt of any payment pursuant to clause 16.1, or the Company becomes aware of any such breach following the Executive having received a payment under clause 16.1, an amount equal to the payment made under clause 16.1 shall be immediately repayable by the Executive to the Company as a debt.

16.4 In the event of a dispute between the parties as to whether there was Cause to terminate Executive's employment or there was Good Reason for Executive to resign, the full amount of termination payments under clause 16.1 shall be placed into escrow until such time that there is a judgment by a court of competent jurisdiction that Cause or Good Reason existed, or the parties otherwise agree in writing that the amount may be released.

16.5 In the event of death of the Executive, the Company's obligations hereunder shall automatically cease and terminate; provided, however, that within fifteen (15) days the Company shall pay to the Executive's heirs or personal representatives the Executive's basic salary and any unpaid bonuses (in accordance with the terms of the applicable Bonus Scheme Agreement) accrued to the date of death including, for the avoidance of doubt, the Severance Payment and any other amounts payable to the Executive under this Agreement as if the Executive had resigned for Good Reason; until the final determination of the identity of the heirs, the Company shall have the right to deposit any such amount with a third party escrow agent appointed by the Company or with the Greek Deposits and Loans Fund.

17. **SUMMARY TERMINATION**

17.1 The employment of the Executive may be terminated by the Company without notice or payment (to the fullest extent permitted under the law, in which case, for the avoidance of doubt, the provision of art. 5(1) second sentence of Law 3198/1955 shall be applicable) for "**Cause**", which shall mean:

- (A) the Executive is guilty of misconduct or commits any serious breach or non-observance of any of the provisions of this Agreement or of his obligations to the Company, the Listed Company or any other Group Company (whether under this Agreement or otherwise) or of any lawful acts or directions of the Board or relevant rules and/or codes issued by or on behalf of any Relevant Stock Exchange or is guilty of any continued or successive breaches or non-observance of any of such provisions, obligations, acts or directions, rules and/or codes, in spite of written warning to the contrary by the Board;
- (B) the Executive is in the reasonable opinion of the Board of the Listed Company or the Executive Chairman negligent or incompetent in the performance of his duties;
- (C) the Executive is adjudged bankrupt;
- (D) the Executive is guilty of any fraud or dishonesty or acts in any manner which in the reasonable opinion of the Board of the Listed Company or the Executive Chairman brings or is likely to bring the Company, the Listed Company or any other Group Company into disrepute or is materially adverse to the interests of the Company, the Listed Company or any other Group Company;

- (E) the Executive performs any act or omission which in the reasonable opinion of the Board of the Listed Company or the Executive Chairman may seriously damage the interests of the Company, the Listed Company or any other Group Company or willfully or negligently breaches any legislation or any regulation to which the Company, the Listed Company or other Group Company may be subject, which may result in any penalties being imposed on him or any Directors of the Company, the Listed Company or other Group Company.
- (F) the Executive becomes prohibited by law or is disqualified from being a director or officer of a company;
- (G) the Executive is convicted of any criminal offense by a court of competent jurisdiction (other than a minor offense for which a fine or other noncustodial penalty is imposed);
- (H) the Executive commits any act of deliberate discrimination or harassment on grounds of race, sex, disability, sexual orientation, religion or belief or age;
- (I) the Executive is adjudged of unsound mind or a patient for the purpose of any statute relating to mental health; or
- (J) the Executive commits any other act warranting summary termination at common law including (but not limited to) any act justifying dismissal without notice in the terms of the Company's generally-applicable Disciplinary Rules in place from time to time.

17.2 The Company shall not terminate Executive's employment for Cause unless Executive is provided written notice of the alleged grounds for Cause under sub-clauses (A), (B), (C), (E), or (J) and a thirty (30) day period to cure.

17.3 The termination of the Executive's employment hereunder for whatsoever reason shall not affect those terms of this Agreement which are expressed to have effect after such termination and shall be without prejudice to any accrued rights or remedies of the parties.

17.4 On the termination of the Executive's employment either summarily or otherwise, or at any other time in accordance with instructions given to him by the Board of the Listed Company or the Executive Chairman, the Executive will immediately return to the Company all equipment, correspondence, records, specifications, software, models, notes, reports and other documents and any copies thereof and any other property belonging to the Company, the Listed Company or any other Group Company (including but not limited to credit cards, keys and passes) which are in the Executive's possession or under his control.

17.5 On the termination of the Executive's employment either summarily or otherwise, or at any other time in accordance with instructions given to him by the Board of the

Listed Company or the Executive Chairman, the Executive will immediately irretrievably delete any information relating to the business of the Company, the Listed Company or any other Group Company stored on any magnetic or optical disk or memory and all matter derived from such sources which is in his possession or under his control outside the premises of the Company, the Listed Company or any other Group Company.

- 17.6 Upon the request of the Board of the Listed Company, the Executive will provide a signed written statement that he has fully complied with his obligations under clauses 17.4 and/or 17.5 and the Company may withhold any sums owing to the Executive on the Termination Date until the obligations in clause 17.4 and/or 17.5 have been complied with.

## 18. INVENTIONS AND IMPROVEMENTS

- 18.1 For the purposes of this clause 18 the following words and expressions shall have the following meanings:

**“Intellectual Property Rights”** means (i) copyright, patents, know-how, confidential information, database rights, and rights in trademarks and designs (whether registered or unregistered), (ii) applications for registration, and the right to apply for registration, for any of the same, and (iii) all other intellectual property rights and equivalent or similar forms of protection existing anywhere in the world;

**“Invention”** means any method, idea, concept, experimental work, theme, invention, discovery, process, model, formula, prototype, sketch, drawing, plan, composition, design, configuration, improvement or modification of any kind conceived, developed, discovered, devised or produced by the Executive alone or with one or more other employees of the Company (or the Listed Company or any other Group Company) during his employment and which pertains to or is actually or potentially useful to the activities from time to time of the Company (or the Listed Company or any other Group Company) or any product or service of the Company (or the Listed Company or any other Group Company).

- 18.2 The Executive shall promptly disclose and deliver to the Company in confidence full details of each Invention (whether or not it was made, devised or discovered during normal working hours or using the facilities of the Company or the Listed Company), to enable the Company to determine whether rights to such Invention vest in the Company, upon the making, devising or discovering of the same and shall at the expense of the Company give all such explanations, demonstrations and instructions as the Company may deem appropriate to enable the full and effectual working, production and use of the same.
- 18.3 The Executive hereby assigns (in so far as title has not automatically vested in the Company through the Executive’s employment) to the Company with full title guarantee by way of future assignment all copyright, database right, design right and other similar rights for the full terms (including any extension or renewals thereof) thereof throughout the world in respect of all works, designs or materials (including,

without limitation, source code and object code for software) originated, conceived, written or made by the Executive during the period of his employment (except only those works or designs originated, conceived, written or made by the Executive wholly outside his normal working hours which are wholly unconnected with any business activity undertaken or planned to be undertaken by the Company, the Listed Company or any other Group Company) to hold unto the Company absolutely. The aforementioned assignment shall include the right to sue for damages and/or other remedies in respect of any infringement (including prior to the date hereof).

- 18.4 The Executive hereby irrevocably and unconditionally waives in favor of the Company for any work in which copyright or design right is vested in the Company whether by this clause 18 or otherwise.
- 18.5 The Executive shall, without additional payment to him (except to the extent provided by applicable law) at the request and expense of the Company and whether or not during the continuance of his employment, promptly execute all documents and do all acts, matters and things as may be necessary or desirable to enable the Company or its nominee to obtain, maintain, protect and enforce any Intellectual Property Right vested in the Company in any or all countries relating to the Intellectual Property Right and to enable the Company to exploit any Intellectual Property Right vested in the Company.
- 18.6 The Executive shall not do anything (whether by omission or commission) during his employment or at any time thereafter to affect or imperil the validity of any Intellectual Property Right obtained, applied for or to be applied for by the Company, the Listed Company or their nominees, and in particular the Executive shall not disclose or make use of any Invention which is the property of the Company or the Listed Company without the prior written consent of the Company. The Executive shall during or after the termination of his employment with the Company, at the request and expense of the Company, provide all reasonable assistance in obtaining, maintaining and enforcing such Intellectual Property Right or in relation to any proceeding relating to the Company's or the Listed Company's right, title or interest in any such Intellectual Property Right.
- 18.7 Without prejudice to the generality of the above clauses, the Executive hereby irrevocably authorizes the Company to appoint a person to be his attorney in his name and on his behalf to execute any documents and do any acts, matters or things as may be necessary for or incidental to grant the Company the full benefit of the provisions of this clause 18.
- 18.8 The obligations of the Executive under this clause 18 shall continue to apply after the termination of his employment (howsoever terminated).
- 18.9 For the avoidance of doubt, nothing in this Agreement shall oblige the Company (or the Listed Company or any other Group Company) to seek protection for or exploit any Intellectual Property Right.

19. **GRIEVANCE AND DISCIPLINARY PROCEDURES**

- 19.1 In the event of the Executive wishing to seek redress of any grievance relating to his employment he should lay his grievance before the Board or the board of directors of the parent company of any group of which the Company or the Listed Company is a member from time to time (in this clause 19, "Ultimate Board") in writing, who will afford the Executive the opportunity of a full hearing before the board or a committee of the board or the Ultimate Board (as appropriate) whose decision on such grievance shall be final and binding.
- 19.2 The Company's and the Listed Company's usual disciplinary procedures do not apply to the Executive. In the event that any disciplinary action is to be taken against the Executive, any hearing in respect thereof will be conducted by such director of the Company, the Listed Company or the parent company of any group of which the Company or the Listed Company is a member from time to time as the Board or the Ultimate Board may in its reasonable discretion nominate. If the Executive seeks to appeal against any disciplinary action taken against him he should do so to the Ultimate Board submitting full written grounds for his appeal to the Chairman of the Ultimate Board within 7 days of the action appealed against. The decision of the Ultimate Board or a delegated committee thereof shall be final and binding. For the avoidance of doubt, the Executive has no contractual right to either a disciplinary hearing or appeal.
- 19.3 The Company may in its absolute discretion suspend the Executive from some or all of his duties (and if applicable, from the Board) and/or require him to remain away from work during any investigation conducted into an allegation relating to the Executive's conduct or performance. During such period, the Executive's salary will continue to be paid and he will continue to be entitled to all benefits provided to him, including participating in any relevant bonus or share option schemes subject always to the rules of those schemes.

20. **GENERAL**

- 20.1 No failure or delay by either party in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof nor shall any single or partial exercise by either party of any right, power or privilege hereunder preclude any further exercise thereof or the exercise of any other right, power or privilege.
- 20.2 The Executive shall have no claim against the Company, the Listed Company or any other Group Company in respect of the termination of his employment hereunder in relation to any provision in any Stock Incentive Plan which has the effect of requiring the Executive to sell, transfer or give up any shares, securities, options or rights issued to him thereunder at any price or which causes any options or other rights granted to him thereunder to become prematurely exercisable or to lapse by reason of his termination or because he has given or received notice of termination.

- 20.3 Any term of any collective agreements which may affect adversely (against the Executive) the terms and conditions of the employment of the Executive hereunder shall not be applicable.
- 20.4 For the avoidance of doubt any payments made to or other benefits provided to the Executive or his family which are not expressly referred to in this Agreement shall be regarded as payments or benefits provided in the ordinary course of business of the Company and, unless express notice of revocation of such payments or benefits is given to the Executive, they shall be deemed to form part of the Executive's contract of employment.
- 20.5 If any clause or provision in this Agreement is found by a court of competent jurisdiction or other competent authority to be invalid, unlawful or unenforceable then such clause or provision shall be severed from the remainder of the Agreement or clause and that remainder shall continue to be valid and enforceable to the fullest extent permitted by law. In that case, the parties shall negotiate in good faith to replace any invalid, unlawful or unenforceable clause or provision with a suitable substitute clause or provision which maintains as far as possible the purpose and effect of this Agreement.
- 20.6 This Agreement may be executed in any number of counterparts, each of which when executed, shall be an original, and all the counterparts together shall constitute one and the same instrument. Delivery of an executed signature page of a counterpart by facsimile transmission or by electronic mail in Adobe TM Portable Document Format (PDF), shall take effect as delivery of an executed counterpart of this Agreement.
- 20.7 No term of this Agreement is enforceable by a third party who is not a party to this Agreement.
- 20.8 No amendment, modification or waiver of this Agreement or any of its provisions shall be binding upon the parties hereto unless made in writing and duly signed by the parties.
- 20.9 Any amendment or change on the applicable law including without limitation tax and social security laws occurring after the date of this Agreement which may adversely affect any amount payable to the Executive by the Company under this Agreement, shall be for the Company's account in its capacity as employer which shall be obliged to gross up any such amount payable to the Executive accordingly so that the net amount received by the Executive from time to time remains the same.

21. **NOTICES**

- 21.1 Without prejudice to any other mode of service provided under the law, any notice or communication given or required under this Agreement may be served by personal delivery or by leaving the same at or by sending the same through the recognized international overnight delivery service in the case of the Company to its registered

office from time to time and in the case of the Executive to his aforesaid address or to the address provided from time to time by the Executive to the Company for the purposes of its employment records.

- 21.2 Any notice sent by recognized international overnight delivery service shall be deemed to have been served 3 business days after the time of depositing such notice with the recognized international overnight delivery service for next day delivery.
- 21.3 **Process agent (antiklitos).** The Company irrevocably appoints Ms. Lida Papadi, presently at 3-5, Menandrou Street, Kifisia, Athens, 14561 Greece, to act as its agent to receive and accept on its behalf any process or other document relating to any proceedings in the Greek courts which are connected with this Agreement.

## 22. EXTENT AND SUBSISTENCE OF AGREEMENT

This Agreement supersedes all other agreements other than those expressly referred to in this Agreement whether written or oral between the Company and the Executive relating to the employment of the Executive. The Executive acknowledges and warrants to the Company that he is not entering into this Agreement in reliance upon any representation not expressly set out herein.

## 23. GOVERNING LAW AND JURISDICTION

- 23.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with Greek law including the collective bargaining agreement for employees in Greek ship management companies dated 1 August 2018 (“CBA”). In case of conflict between the terms of this Agreement and the provisions of Greek law including those of the CBA, this Agreement shall prevail to the extent that its terms are more favorable for the Executive.
- 23.2 The parties agree to submit to the exclusive jurisdiction of the Courts of Piraeus, Greece as regards any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).



IN WITNESS whereof a duly authorized representative of the Company has executed this Agreement and the Executive has executed this Agreement as his Deed on the date of this Agreement.

**EXECUTED** by the Company

acting by Georgios Giouroukos ) /s/ Georgios Giouroukos  
)

the said **Anastasios Psaropoulos** ) /s/ Anastasios Psaropoulos  
)

**COUNTERSIGNED, AGREED and ACCEPTED** by the  
Listed Company

acting by Ian Webber ) /s/ Ian Webber  
Thomas Lister ) /s/ Thomas Lister

## **Exhibit A**

### **Leadership and strategic direction**

- To develop a financial strategy and to monitor implementation of such strategy in discussion with the Listed Company Group Executive Chairman, CEO and CCO.
- To prepare strategic recommendations to the Board of the Company and the Listed Company.
- To supervise and control the Company's and the Listed Company's financials, accounting and treasury.
- To establish and develop relations with the Listed Company's senior management, stakeholders (shareholders, analysts, creditors) and external parties (future investors, lawyers, advisors).
- To provide leadership, direction and management of the Listed Company's finance and accounting team.
- To manage the processes for financial forecasting, controls and budgets, and oversee the preparation of all financial reporting.
- To undertake long-term planning and establish business objectives, including strategic business plans, financial and other business objectives.
- To represent the Company and the Listed Company at the highest level including to the government, regulatory authorities, the media, prospective investors, company stakeholders and the general public.

## **Operations and controls**

- To work with the Listed Company Group Executive Chairman, CEO and CCO to:
  - Search for investments for the company to assist growth (vessels, fleet acquisitions).
  - Search for possible M&As.
  - Search for finance of new acquisitions or refinance of existing indebtedness.
  - Initiate equity or debt raising.
  - Perform meetings with investors in respect of equity/debt raisings.
  - Perform non-deal roadshows with respect to investor relations.
  - Participate in Company and Listed Company quarterly result conference calls and investor calls.
  - Present the Company and Listed Company in industry events.
  - Communicate with shareholders.
  - Monitor budget and performance of the Company and the Listed Company.
  - Monitor cash balances and cash forecasts of the Company and the Listed Company.
  - Monitor the efficient operation of the Company and the Listed Company.
  - Review the Listed Company's public filings.
  - Prepare the financial statements for the Company and the Listed Company in accordance with all regulatory requirements.
  - Perform risk management by analyzing the Company's and the Listed Company's liabilities and investments.
  - Ensure compliance with tax law and coordinate and produce all tax documentation as required.

## **Reporting**

- To supervise with the Listed Company Group Executive Chairman, CEO, and CCO to:
  - Report to the board regularly on the operation of the Company's and Listed Company's businesses both at board meetings and at other times.

- o Provide such information to the board as they may require in order for the board to assess the performance of the business and the achievement of the agreed strategy and budget.



## LIST OF SUBSIDIARIES OF GLOBAL SHIP LEASE, INC.

Name	Business	Jurisdiction of Incorporation
GSL Rome LLC	Sub-holding	Republic of the Marshall Islands
Poseidon Containers Holdings LLC	Sub-holding	Republic of the Marshall Islands
K&T Marine LLC	Sub-holding	Republic of the Marshall Islands
Global Ship Lease Services Limited	Service company	United Kingdom
GSL Enterprises Ltd.	Service company	Republic of the Marshall Islands
Global Ship Lease 1 Limited	Inactive	Cyprus
Global Ship Lease 2 Limited	Inactive	Cyprus
Global Ship Lease 3 Limited	Inactive	Cyprus
Global Ship Lease 4 Limited	Inactive	Cyprus
Global Ship Lease 5 Limited	Owens GSL Keta	Cyprus
Global Ship Lease 6 Limited	Owens GSL Julie	Cyprus
Global Ship Lease 7 Limited	Owens Kumasi	Cyprus
Global Ship Lease 8 Limited	Inactive	Cyprus
Global Ship Lease 9 Limited	Owens GSL La Tour	Cyprus
Global Ship Lease 10 Limited	Inactive	Cyprus
Global Ship Lease 11 Limited	Inactive	Cyprus
Global Ship Lease 12 Limited	Owens CMA CGM Chateau d'If	Cyprus
Global Ship Lease 13 Limited	Owens CMA CGM Thalassa	Cyprus
Global Ship Lease 14 Limited	Owens CMA CGM Jamaica	Cyprus
Global Ship Lease 15 Limited	Owens CMA CGM Sambhar	Cyprus
Global Ship Lease 16 Limited	Owens CMA CGM America	Cyprus
Global Ship Lease 17 Limited	Inactive	Cyprus
Global Ship Lease 19 Limited	Inactive	Republic of the Marshall Islands
Global Ship Lease 20 Limited	Owens MSC Tianjin	Hong Kong
Global Ship Lease 21 Limited	Owens MSC Qingdao	Hong Kong
Global Ship Lease 22 Limited	Inactive	Hong Kong
Global Ship Lease 23 Limited	Owens CMA CGM Berlioz	Hong Kong
Global Ship Lease 24 Limited	Inactive	Hong Kong
Global Ship Lease 25 Limited	Inactive	Hong Kong
Global Ship Lease 26 Limited	Owens GSL Valerie	Hong Kong
Global Ship Lease 27 Limited	Inactive	Hong Kong
Global Ship Lease 28 Limited	Inactive	Hong Kong
Global Ship Lease 29 Limited	Inactive	Hong Kong
GSL Alcazar Inc.	Owens CMA CGM Alcazar	Republic of the Marshall Islands
GSL Holdings, Inc.	Sub-holding	Republic of the Marshall Islands
Global Ship Lease Investments, Inc.	Sub-holding	Republic of the Marshall Islands
Aris Marine LLC	Owens Maira	Republic of the Marshall Islands
Aphrodite Marine LLC	Owens Nikolas	Republic of the Marshall Islands
Athena Marine LLC	Owens Newyorker	Republic of the Marshall Islands
Hephaestus Marine LLC	Owens Dolphin II	Republic of the Marshall Islands
Pericles Marine LLC	Owens Athena	Republic of the Marshall Islands
Zeus One Marine LLC	Owens Orca I	Republic of the Marshall Islands

<b>Name</b>	<b>Business</b>	<b>Jurisdiction of Incorporation</b>
Leonidas Marine LLC	Owens Agios Dimitrios	Republic of the Marshall Islands
Odysseus Marine LLC	Sub-holding	Republic of the Marshall Islands
Alexander Marine LLC	Owens Mary	Republic of the Marshall Islands
Hector Marine LLC	Owens Kristina	Republic of the Marshall Islands
Ikaros Marine LLC	Owens Katherine	Republic of the Marshall Islands
THD Maritime Co, Limited	Sub-holding	Cyprus
Tasman Marine LLC	Owens Tasman	Republic of the Marshall Islands
Hudson Marine LLC	Owens Dimitris Y	Republic of the Marshall Islands
Drake Marine LLC	Owens Ian H	Republic of the Marshall Islands
Marine Treasurer LLC	Treasury	Republic of the Marshall Islands
Triton Containers Holdings LLC	Sub-holding	Republic of the Marshall Islands
Triton NB LLC	Sub-holding	Republic of the Marshall Islands
Phillipos Marine LLC	Owens Alexandra	Republic of the Marshall Islands
Aristoteles Marine LLC	Owens Alexis	Republic of the Marshall Islands
Menelaos Marine LLC	Owens Olivia I	Republic of the Marshall Islands
Odyssia Containers Holdings LLC	Sub-holding	Republic of the Marshall Islands
Odyssia NB LLC	Sub-holding	Republic of the Marshall Islands
Argos Marine LLC	Inactive	Republic of the Marshall Islands
Laertis Marine LLC	Owens UASC Al Khor	Republic of the Marshall Islands
Penelope Marine LLC	Owens Maira XL	Republic of the Marshall Islands
Telemachus Marine LLC	Owens Anthea Y	Republic of the Marshall Islands
Global Ship Lease 30 LLC	Owens GSL Eleni	Republic of the Marshall Islands
Global Ship Lease 31 LLC	Owens GSL Kalliopi	Republic of the Marshall Islands
Global Ship Lease 32 LLC	Owens GSL Grania	Republic of the Marshall Islands
Global Ship Lease 33 LLC	Owens GSL Vinia	Liberia
Global Ship Lease 34 LLC	Owens GSL Christel Elisabeth	Liberia
Global Ship Lease 35 LLC	Owens NYK Libra	Liberia
Global Ship Lease 36 LLC	Owens NYK Lynx	Liberia
Global Ship Lease 37 LLC	Owens GSL Matisse	Liberia
Global Ship Lease 38 LLC	Owens Manet	Liberia
Global Ship Lease 39 LLC	Owens Utrillo	Liberia
Global Ship Lease 40 LLC	Inactive	Liberia
Global Ship Lease 41 LLC	Inactive	Liberia
Global Ship Lease 42 LLC	Inactive	Liberia
Global Ship Lease 43 LLC	Owens GSL Ningbo	Liberia
Global Ship Lease 44 LLC	Owens Marie Delmas	Liberia
Global Ship Lease 45 LLC	Inactive	Liberia
Global Ship Lease 46 LLC	Inactive	Liberia
Global Ship Lease 47 LLC	Inactive	Liberia
Global Ship Lease 48 LLC	Inactive	Liberia
Global Ship Lease 49 LLC	Inactive	Liberia
Global Ship Lease 50 LLC	Inactive	Liberia
Global Ship Lease 51 LLC	Inactive	Liberia
Global Ship Lease 52 LLC	Inactive	Liberia
Global Ship Lease 53 LLC	Inactive	Liberia
Global Ship Lease 54 LLC	Inactive	Liberia

## CERTIFICATION

I, Ian J. Webber, Chief Executive Officer of the Company, certify that:

1. I have reviewed this Annual Report on Form 20-F of Global Ship Lease, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the company as of, and for, the periods presented in this report;
4. The company's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the company and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the company's internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect, the company's internal control over financial reporting; and
5. The company's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the company's auditors and the audit committee of the company's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the company's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the company's internal control over financial reporting.

Dated: April 2, 2020

By: /s/ Ian J. Webber

Ian J. Webber

Chief Executive Officer

(Principal Executive Officer)

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## CERTIFICATION

I, Anastasios Psaropoulos, Chief Financial Officer of the Company, certify that:

1. I have reviewed this Annual Report on Form 20-F of Global Ship Lease, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the company as of, and for, the periods presented in this report;
4. The company's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the company and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the company's internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect, the company's internal control over financial reporting; and
5. The company's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the company's auditors and the audit committee of the company's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the company's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the company's internal control over financial reporting.

Dated: April 2, 2020

By: /s/ Anastasios Psaropoulos

Anastasios Psaropoulos  
Chief Financial Officer  
(Principal Financial Officer)

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**CERTIFICATION PURSUANT TO**  
**18 U.S.C. SECTION 1350,**  
**AS ADOPTED PURSUANT TO SECTION 906**  
**OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Annual Report of Global Ship Lease, Inc. (the "Company") on Form 20-F for the year ended December 31, 2019 as filed with the Securities and Exchange Commission on the date hereof (the "Form 20-F"), I, Ian J. Webber, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. §1350, as adopted pursuant to §906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Form 20-F fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)); and
- (2) The information contained in the Form 20-F fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: April 2, 2020

By: /s/ Ian J. Webber

Ian J. Webber

Chief Executive Officer

(Principal Executive Officer)

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**CERTIFICATION PURSUANT TO**  
**18 U.S.C. SECTION 1350,**  
**AS ADOPTED PURSUANT TO SECTION 906**  
**OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Annual Report of Global Ship Lease, Inc. (the "Company") on Form 20-F for the year ended December 31, 2019 as filed with the Securities and Exchange Commission on the date hereof (the "Form 20-F"), I, Anastasios Psaropoulos, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. §1350, as adopted pursuant to §906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Form 20-F fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)); and
- (2) The information contained in the Form 20-F fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: April 2, 2020

By: /s/ Anastasios Psaropoulos

Anastasios Psaropoulos  
Chief Financial Officer  
(Principal Financial Officer)

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CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in the Registration Statements on Form F-3 (Nos. 333-231509, 333-234343 and 333-235305) of Global Ship Lease, Inc. of our report dated March 29, 2018, except for the effects of the stock split discussed in Note 2(a) to the consolidated financial statements, as to which the date is March 29, 2019, relating to the consolidated financial statements, which appears in this Form 20-F.

/s/ PricewaterhouseCoopers Audit

Marseille, France

April 2, 2020

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CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in the Registration Statements on Form F-3 (Nos. 333-231509, 333-234343 and 333-235305) of Global Ship Lease, Inc. of our report dated April 2, 2020 relating to the consolidated financial statements, which appears in this Form 20-F.

/s/ PricewaterhouseCoopers S.A.

Athens, Greece

April 2, 2020

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Global Ship Lease, Inc.  
c/o Global Ship Lease Services Limited  
25 Wilton Road  
London SW1V 1LW

March 31, 2020

Ladies and Gentlemen:

Reference is made to the Annual Report on Form 20-F of Global Ship Lease, Inc. (the "Company") for the year ended December 31, 2019 (the "Annual Report") and the registration statements on Form F-3 (File Nos. 333-234343, 333-235305 and 333-231509) of the Company, as may be amended, including the prospectuses contained therein (the "Registration Statements"). We hereby consent to all references to our name in the Annual Report and to the use of the statistical information and industry and market data supplied by us as set forth in the Annual Report and to the incorporation by reference of the same into the Registration Statements. We further advise the Company that our role has been limited to the provision of such statistical information and industry and market data supplied by us. With respect to such information and data, we advise you that:

(1) we have accurately described the information and data of the container shipping industry, subject to the availability and reliability of the data supporting the statistical and graphical information presented; and

(2) our methodologies for collecting information and data may differ from those of other sources and does not reflect all or even necessarily a comprehensive set of the actual transactions occurring in the container shipping industry.

We hereby consent to the filing of this letter as an exhibit to the Annual Report, which is incorporated by reference into the Registration Statements.

Yours faithfully,

Maritime Strategies International Ltd.

A handwritten signature in blue ink that reads "A Kent".

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A Kent  
Managing Director