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

FORM 6-K

**REPORT OF FOREIGN PRIVATE ISSUER
PURSUANT TO RULE 13A-16 OR 15D-16
OF THE SECURITIES EXCHANGE ACT OF 1934**

DATED: November 18, 2020

Commission File No. 001-33811

NAVIOS MARITIME PARTNERS L.P.

**7 Avenue de Grande Bretagne, Office 11B2
Monte Carlo, MC 98000 Monaco
(Address of Principal Executive Offices)**

Indicate by check mark whether the registrant files or will file annual reports under cover of Form 20-F or Form 40-F. Form 20-F Form 40-F

Indicate by check mark if the registrant is submitting the Form 6-K in paper as permitted by Regulation S-T Rule 101(b)(1): Yes No

Indicate by check mark if the registrant is submitting the Form 6-K in paper as permitted by Regulation S-T Rule 101(b)(7): Yes No

Indicate by check mark whether the registrant by furnishing the information contained in this Form is also thereby furnishing the information to the Commission pursuant to Rule 12g3-2(b) under the Securities Exchange Act of 1934. Yes No

If "Yes" is marked, indicate below the file number assigned to the registrant in connection with Rule 12g3-2(b): N/A

NAVIOS MARITIME PARTNERS L.P.

FORM 6-K

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This Report on Form 6-K is hereby incorporated by reference into the Navios Maritime Partners L.P. Registration Statement on Form F-3, File No. 333-237934.

Operating and Financial Review and Prospects

The following is a discussion of the financial condition and results of operations for the three and nine month periods ended September 30, 2020 and 2019 of Navios Maritime Partners L.P. (referred to herein as “we”, “us”, “Company” or “Navios Partners”). All of the financial statements have been stated in accordance with generally accepted accounting principles in the United States of America (“U.S. GAAP”). You should read this section together with the consolidated financial statements and the accompanying notes included in Navios Partners’ 2019 Annual Report filed on Form 20-F with the U.S. Securities and Exchange Commission (the “SEC”) on April 1, 2020.

This Report contains forward-looking statements (as defined in Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended) concerning future events including Navios Partners’ 2020 cash flow generation, future contracted revenues, future distributions and its ability to have any distributions going forward, opportunities to reinvest cash accretively in a fleet renewal program or otherwise, potential capital gains, our ability to take advantage of dislocation in the market and Navios Partners’ growth strategy and measures to implement such strategy; including expected vessel acquisitions and entering into further time charters. Words such as “may,” “expects,” “intends,” “plans,” “believes,” “anticipates,” “hopes,” “estimates,” and variations of such words and similar expressions are intended to identify forward-looking statements. Such statements include comments regarding expected revenue and time charters. These forward-looking statements are based on the information available to, and the expectations and assumptions deemed reasonable by Navios Partners at the time these statements were made. Although Navios Partners believes that the expectations reflected in such forward-looking statements are reasonable, no assurance can be given that such expectations will prove to have been correct. These statements involve risks and are based upon a number of assumptions and estimates that are inherently subject to significant uncertainties and contingencies, many of which are beyond the control of Navios Partners. Actual results may differ materially from those expressed or implied by such forward-looking statements. Factors that could cause actual results to differ materially include, but are not limited to, global and regional economic and political conditions including the impact of the COVID-19 pandemic and efforts throughout the world to contain its spread, including effects on global economic activity, demand for seaborne transportation of the products we ship, the ability and willingness of charterers to fulfill their obligations to us and prevailing charter rates, shipyards performing scrubber installations, drydocking and repairs, changing vessel crews and availability of financing, potential disruption of shipping routes due to accidents, diseases, pandemics, political events, piracy or acts by terrorists, including the impact of the COVID-19 pandemic and the ongoing efforts throughout the world to contain it, the creditworthiness of our charterers and the ability of our contract counterparties to fulfill their obligations to us, tanker industry trends, including charter rates and vessel values and factors affecting vessel supply and demand, the aging of our vessels and resultant increases in operation and dry docking costs, the loss of any customer or charter or vessel, our ability to repay outstanding indebtedness, to obtain additional financing and to obtain replacement charters for our vessels, in each case, at commercially acceptable rates or at all, increases in costs and expenses, including but not limited to: crew wages, insurance, provisions, port expenses, lube oil, bunkers, repairs, maintenance and general and administrative expenses, the expected cost of, and our ability to comply with, governmental regulations and maritime self-regulatory organization standards, as well as standard regulations imposed by our charterers applicable to our business, potential liability from litigation and our vessel operations, including discharge of pollutants, general domestic and international political conditions, competitive factors in the market in which Navios Partners operates; risks associated with operations outside the United States; and other factors listed from time to time in Navios Partners’ filings with the U.S. Securities and Exchange Commission, including its reports on Form 20-F and reports on Form 6-K. Navios Partners expressly disclaims any obligations or undertaking to release publicly any updates or revisions to any forward-looking statements contained herein to reflect any change in Navios Partners’ expectations with respect thereto or any change in events, conditions or circumstances on which any statement is based. Navios Partners makes no prediction or statement about the performance of its common units.

Recent Developments

Navios Containers

On November 16, 2020, Navios Partners submitted a proposal to the Board of Directors of Navios Maritime Containers L.P. (“Navios Containers”) to acquire the outstanding common units of Navios Containers not already owned by Navios Partners. Navios Partners proposed to issue in a merger transaction 0.37 of a common unit of Navios Partners for each outstanding common unit of Navios Containers.

The proposed transaction is subject, amongst others, to the negotiation and execution of a definitive agreement, approval of the Board of Directors of Navios Partners and the necessary approvals under Navios Containers’ limited partnership agreement. The consummation of the proposed transaction would be subject to customary closing conditions. There can be no assurance that any such approvals will be forthcoming, that a definitive agreement will be executed, or that any transaction will be consummated.

Fleet Developments

- **\$51.0 million acquisition of vessels**

In September 2020, Navios Partners acquired the Navios Gem, a 2014-Japanese built Capesize vessel of 181,336 dwt, and the Navios Victory, a 2014-Japanese built Panamax vessel of 77,095 dwt, from Navios Maritime Holdings Inc. (“Navios Holdings”). The vessels were acquired for a purchase price of \$51.0 million, including working capital adjustments.

- **\$12.7 million sale of two vessels**

In October 2020, Navios Partners agreed to sell the Esperanza N, a 2008-built Containership of 2,007 TEU and the Navios Soleil, a 2009-built Ultra-Handymax vessel of 57,337 dwt for net sale prices of \$4.6 million and \$8.2 million, respectively. The Company is expected to recognize a book loss from the sale of these two vessels of approximately \$11.7 million, of which \$1.8 million has already been included in the third quarter of 2020. The sales are expected to be completed by the end of January 2021.

Financing Arrangements

In September 2020, Navios Partners entered into a new credit facility with a commercial bank for a total amount of \$33.0 million in order to finance the acquisition of the Navios Gem and the Navios Victory. The credit facility has an amortization profile of 9.7 years, matures in September 2025 and bears interest at LIBOR plus 325 basis points (“bps”) per annum.

Cash Distribution

In October 2020, the Board of Directors of Navios Partners declared a cash distribution for the third quarter of 2020 of \$0.05 per unit. The cash distribution was paid on November 13, 2020 to all unitholders of common units and general partner units of record as of November 9, 2020. The declaration and payment of any further dividends remain subject to the discretion of the Board of Directors and will depend on, among other things, Navios Partners’ cash requirements as measured by market opportunities and restrictions under its credit agreements and other debt obligations and such other factors as the Board of Directors may deem advisable.

Overview

Navios Partners is an international owner and operator of dry cargo vessels, formed on August 7, 2007 under the laws of the Republic of the Marshall Islands by Navios Holdings, a global seaborne shipping and logistics company. Navios GP L.L.C., a wholly owned subsidiary of Navios Holdings, was also formed on that date to act as the general partner of Navios Partners. Currently, our general partner is Olympos Maritime Ltd. (the “General Partner”) and holds a 2.1% general partner interest in Navios Partners.

As of November 17, 2020, there were outstanding 11,345,187 common units and 237,822 general partnership units. Navios Holdings currently owns an approximately 18.2% common unit interest in Navios Partners and the General Partner currently owns a 2.1% general partner interest in Navios Partners.

Fleet

Navios Partners’ fleet consists of 24 Panamax vessels, 15 Capesize vessels, six Ultra-Handymax vessels and ten Containerships, including two Panamax bareboat charter-in vessels which are expected to be delivered by the first half of 2021.

We generate revenues by charging our customers for the use of our vessels to transport their dry cargos. In general, the vessels in our fleet are chartered-out under time charters, which range in length up to twelve years at inception. From time to time, we operate vessels in the spot market until the vessels have been chartered under longer-term charters.

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The following table provides summary information about our fleet as of November 17, 2020:

Owned Drybulk Vessels	Type	Built	Capacity (DWT)	Charter-Out Rate(1)	Index(2)	Expiration Date(3)
Navios Soleil(11)	Ultra-Handymax	2009	57,337	\$7,600	No	November 2020
Navios La Paix	Ultra-Handymax	2014	61,485	\$10,925	No	February 2021
Navios Christine B	Ultra-Handymax	2009	58,058	—	100% average BSI 58 10TC	January 2021
Navios Amaryllis	Ultra-Handymax	2008	58,735	\$8,835	No	August 2021
Serenitas N	Ultra-Handymax	2011	56,644	—	82% average BSI 58 10TC	January 2021
Joie N	Ultra-Handymax	2011	56,557	\$8,455	No	January 2021
Navios Hyperion	Panamax	2004	75,707	\$9,625	No	December 2020
				\$8,759	No	March 2021
				—	100% average BPI 4TC	August 2021
Navios Alegria	Panamax	2004	76,466	—	99.5% average BPI 4TC	April 2022
Navios Orbiter	Panamax	2004	76,602	\$10,106	No	December 2020
				\$8,663	No	March 2021
				—	100% average BPI 4TC	December 2021
Navios Helios	Panamax	2005	77,075	\$9,914	No	December 2020
				\$8,711	No	March 2021
				—	100% average BPI 4TC	September 2021
Navios Sun	Panamax	2005	76,619	\$9,818	No	December 2020
				\$9,144	No	March 2021
				—	100% average BPI 4TC	December 2021
Navios Hope	Panamax	2005	75,397	\$10,010	No	December 2020
				\$9,625	No	December 2021
				—	100% average BPI 4TC	January 2022
Navios Sagittarius(6)	Panamax	2006	75,756	\$8,788	No	January 2021
Navios Harmony	Panamax	2006	82,790	\$8,740	No	April 2021
Navios Prosperity I	Panamax	2007	75,527	\$9,500	No	January 2021
Navios Libertas	Panamax	2007	75,511	\$8,550	No	February 2021
Navios Altair I	Panamax	2006	74,475	\$8,075	No	February 2021
Navios Symmetry	Panamax	2006	74,381	\$11,875	No	November 2020
Navios Apollon I	Panamax	2005	87,052	—	109% average BPI 4TC	February 2022
Navios Sphera	Panamax	2016	84,872	\$11,954	No	March 2021
				—	120% average BPI 4TC	March 2022
Navios Camelia	Panamax	2009	75,162	\$9,500	No	January 2021
Navios Anthos	Panamax	2004	75,798	\$9,500	No	January 2021
Navios Azalea	Panamax	2005	74,759	\$11,400	No	May 2021
Copernicus N	Panamax	2010	93,062	\$11,056	No	December 2020
				—	95.75% average BPI 4TC	February 2021
Unity N	Panamax	2011	79,642	\$11,174	No	December 2020
				—	90% average BPI 4TC	January 2021
				—	95.5% average BPI 4TC	April 2021
Odysseus N	Panamax	2011	79,642	\$9,390	No	March 2021
				—	95.5% average BPI 4TC	June 2021
Navios Victory	Panamax	2014	77,095	\$12,289	No	December 2020
				—	112% average BPI 4TC	February 2021
Navios Beaufiks(7)	Capesize	2004	180,310	—	100% average BCI 5TC	March 2021
Navios Symphony	Capesize	2010	178,132	—	100.5% average BCI 5TC	October 2021
Navios Fantastiks(8)	Capesize	2005	180,265	\$21,650	No	March 2023
Navios Aurora II	Capesize	2009	169,031	—	95.25% average BCI 5TC	February 2021
Navios Pollux	Capesize	2009	180,727	—	100% of pool earnings	December 2020
Navios Sol(9)	Capesize	2009	180,274	—	110% average BCI 5TC	March 2021
Navios Fulvia	Capesize	2010	179,263	—	100% average BCI 5TC	June 2021
Navios Buena Ventura	Capesize	2010	179,259	—	101% average BCI 5TC	March 2021

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Navios Melodia	Capesize	2010	179,132	\$29,356	Profit sharing 50% above \$37,500/day based on Baltic Exchange Capesize TC Average	September 2022
Navios Luz	Capesize	2010	179,144	—	100% average BCI 5TC	February 2021
Navios Ace ⁽¹⁰⁾	Capesize	2011	179,016	—	109% average BCI 5TC	March 2021
Navios Aster	Capesize	2010	179,314	\$21,945	No	December 2020
				—	105% average BCI 5TC	March 2021
Navios Joy	Capesize	2013	181,389	—	113% average BCI 5TC	March 2021
Navios Gem	Capesize	2014	181,336	—	125% average BCI 5TC	April 2021
Navios Mars	Capesize	2016	181,259	\$22,610	No	February 2022

Bareboat Chartered-in vessel	Type	Built	Capacity (DWT)	Charter-Out Rate ⁽¹⁾	Index ⁽²⁾	Expiration Date ⁽³⁾
Navios Libra	Panamax	2019	82,011	\$ 15,141	No	December 2020
				—	125% average BPI 4TC	September 2021

Bareboat Chartered-in vessels to be delivered	Type	Built	Capacity (DWT)	Charter-Out Rate ⁽¹⁾	Index ⁽²⁾	Expiration Date ⁽³⁾⁽⁴⁾
Navios TBN1	Panamax	2021	81,000	—	110% average BPI 4TC	May 2024
Navios TBN2	Panamax	2021	81,000	—	110% average BPI 4TC	June 2024

Owned Containerships	Type	Built	TEU	Charter-Out Rate ⁽¹⁾	Index ⁽²⁾	Expiration Date ⁽³⁾
Hyundai Hongkong ⁽⁵⁾	Containership	2006	6,800	\$ 30,119	No	December 2023
				\$ 21,083	No	December 2028
Hyundai Singapore ⁽⁵⁾	Containership	2006	6,800	\$ 30,119	No	December 2023
				\$ 21,083	No	December 2028
Hyundai Tokyo ⁽⁵⁾	Containership	2006	6,800	\$ 30,119	No	December 2023
				\$ 21,083	No	December 2028
Hyundai Shanghai ⁽⁵⁾	Containership	2006	6,800	\$ 30,119	No	December 2023
				\$ 21,083	No	December 2028
Hyundai Busan ⁽⁵⁾	Containership	2006	6,800	\$ 30,119	No	December 2023
				\$ 21,083	No	December 2028
Esperanza N ⁽¹¹⁾	Containership	2008	2,007	\$ 6,172	No	January 2021
Protostar N	Containership	2007	2,741	\$ 7,011	No	December 2020
Harmony N	Containership	2006	2,824	\$ 8,181	No	July 2021
Castor N	Containership	2007	3,091	\$ 6,891	No	November 2020
Solar N	Containership	2006	3,398	\$ 13,510	No	November 2020

- (1) Daily charter-out rate per day, net of commissions.
- (2) Index rates exclude commissions.
- (3) Charter expiration dates shown reflect expected redelivery date based on the midpoint of the full redelivery period in the charter agreement, unless otherwise noted and including Navios Partners' extension options, not declared yet.
- (4) Expected to be delivered by the first half of 2021.
- (5) Upon acquisition, the vessels are fixed on ten/twelve year charters with Navios Partners' option to terminate after year seven.
- (6) The vessel is subject to a sale and leaseback transaction for a period of up to three years, at which time Navios Partners has an obligation to purchase the vessel.
- (7) The vessel is subject to a sale and leaseback transaction for a period of up to five years, at which time Navios Partners has an obligation to purchase the vessel.
- (8) The vessel is subject to a sale and leaseback transaction for a period of up to six years, at which time Navios Partners has an obligation to purchase the vessel.
- (9) The vessel is subject to a sale and leaseback transaction for a period of up to ten years, at which time Navios Partners has an obligation to purchase the vessel.
- (10) The vessel is subject to a sale and leaseback transaction for a period of up to eleven years, at which time Navios Partners has an obligation to purchase the vessel.
- (11) Expected to be sold by the end of January 2021.

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Our Charters

We provide or will provide seaborne shipping services under long-term time charters with customers that we believe are creditworthy. For the nine month period ended September 30, 2020, HMM Co., Ltd. (“HMM”) represented approximately 24.6% of total revenues. For the nine month period ended September 30, 2019, HMM, Swissmarine Asia Pte. Ltd. (“Swissmarine”) and Cargill International S.A. (“Cargill”) represented approximately 26.9%, 12.3% and 10.6%, respectively, of total revenues. No other customers accounted for 10% or more of total revenues for any of the periods presented.

Our revenues are driven by the number of vessels in the fleet, the number of days during which vessels operate and our charter hire rates, which, in turn, are affected by a number of factors, including:

- the duration of the charters;
- the level of spot and long-term market rates at the time of charters;
- decisions relating to vessel acquisitions and disposals;
- the amount of time spent positioning vessels;
- the amount of time that vessels spend in dry dock undergoing repairs and upgrades;
- the age, condition and specifications of the vessels; and
- the aggregate level of supply and demand in the dry cargo shipping industry.
- the recent global outbreak of novel coronavirus (COVID-19) or other epidemics or pandemics.

Time charters are available for varying periods, ranging from a single trip (spot charter) to long-term which may be many years. In general, a long-term time charter assures the vessel owner of a consistent stream of revenue. Operating the vessel in the spot market affords the owner greater spot market opportunity, which may result in high rates when vessels are in high demand or low rates when vessel availability exceeds demand. We intend to operate our vessels in the long-term charter market. Vessel charter rates are affected by world economics, international events, weather conditions, strikes, governmental policies, supply and demand and many other factors that might be beyond our control. Please read “Risk Factors” in our 2019 Annual Report on Form 20-F for a discussion of certain risks inherent in our business.

We could lose a customer or the benefits of a charter if:

- the customer fails to make charter payments because of its financial inability, disagreements with us or otherwise;
- the customer exercises certain rights to terminate the charter of the vessel;
- the customer terminates the charter because we fail to deliver the vessel within a fixed period of time, the vessel is lost or damaged beyond repair, there are serious deficiencies in the vessel or prolonged periods of off-hire, or we default under the charter; or
- a prolonged force majeure event affecting the customer, including damage to or destruction of relevant production facilities, war or political unrest prevents us from performing services for that customer. Under some of our time charters, either party may terminate the charter contract in the event of war in specified countries or in locations that would significantly disrupt the free trade of the vessel. Some of the time charters covering our vessels require us to return to the charterer, upon the loss of the vessel, all advances paid by the charterer but not earned by us.

Trends and Factors Affecting Our Future Results of Operations

We believe the principal factors that will affect our future results of operations are the economic, regulatory, political and governmental conditions that affect the shipping industry generally and that affect conditions in countries and markets in which our vessels engage in business. Please read “Risk Factors” in our 2019 Annual Report on Form 20-F for a discussion of certain risks inherent in our business.

Impact of COVID-19 on the Company’s Business: The spread of the COVID-19 virus, which has been declared a pandemic by the World Health Organization, in 2020, has caused substantial disruptions in the global economy and the shipping industry, as well as significant volatility in the financial markets, the severity and duration of which remains uncertain.

The impact of the COVID-19 pandemic continues to unfold and may continue to have negative effect on our business, financial performance and the results of our operations, including due to decreased demand for global seaborne dry bulk and container trade and dry bulk and containership charter rates, the extent of which will depend largely on future developments. As a result, many of our estimates and assumptions required increased judgment and carry a higher degree of variability and volatility. As events continue to evolve and additional information becomes available, our estimates may change in future periods.

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We have evaluated the impact of current economic situation on the recoverability of the carrying amount of our vessels. As of June 30, 2020, we concluded that events and circumstances triggered the existence of potential impairment of our vessels. These indicators included volatility in the charter market as well as the potential impact the current marketplace may have on our future operations. As a result, we performed step one of the impairment assessment of our vessels by comparing the undiscounted projected net operating cash flows for each vessel to its carrying value. As of June 30, 2020, our assessment concluded that step two of the impairment analysis was required for three containerships held and used, as the undiscounted projected net operating cash flows did not exceed the carrying value. As a result, the Company recorded an impairment loss of \$6.8 million for these vessels, being the difference between the fair value and the vessel's carrying value together with the carrying value of deferred drydock and special survey costs related to the vessel presented under the caption "Vessels impairment loss" in the condensed Consolidated Statements of Operations as of June 30, 2020 (see Note 4 – Vessels, net). As of September 30, 2020, we concluded that events and circumstances did not trigger the existence of potential impairment of our vessels, mainly due to the market improvement since June 30, 2020.

Results of Operations

Overview

The financial condition and the results of operations presented for the three and nine month periods ended September 30, 2020 and 2019 of Navios Partners presented and discussed below include the following entities:

<u>Company name</u>	<u>Vessel name</u>	<u>Country of incorporation</u>	<u>2020</u>	<u>2019</u>
Libra Shipping Enterprises Corporation ⁽¹⁾	Navios Libra II	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Alegria Shipping Corporation	Navios Alegria	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Felicity Shipping Corporation ⁽²⁾	Navios Felicity	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Gemini Shipping Corporation ⁽³⁾	Navios Gemini S	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Galaxy Shipping Corporation ⁽⁴⁾	Navios Galaxy I	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Aurora Shipping Enterprises Ltd.	Navios Hope	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Palermo Shipping S.A. ⁽⁵⁾	Navios Apollon	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Fantastiks Shipping Corporation ⁽¹²⁾	Navios Fantastiks	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Sagittarius Shipping Corporation ⁽¹²⁾	Navios Sagittarius	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Hyperion Enterprises Inc.	Navios Hyperion	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Chilali Corp.	Navios Aurora II	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Surf Maritime Co.	Navios Pollux	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Pandora Marine Inc.	Navios Melodia	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Customized Development S.A.	Navios Fulvia	Liberia	1/01 – 09/30	1/01 – 09/30
Kohylia Shipmanagement S.A.	Navios Luz	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Orbiter Shipping Corp.	Navios Orbiter	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Floral Marine Ltd.	Navios Buena Ventura	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Golem Navigation Limited	Navios Soleil	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Kymata Shipping Co.	Navios Helios	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Joy Shipping Corporation	Navios Joy	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Micaela Shipping Corporation	Navios Harmony	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Pearl Shipping Corporation	Navios Sun	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Velvet Shipping Corporation	Navios La Paix	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Perigiali Navigation Limited ⁽¹²⁾	Navios Beaufiks	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Finian Navigation Co. ⁽¹²⁾	Navios Ace	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Ammos Shipping Corp.	Navios Prosperity I	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Wave Shipping Corp.	Navios Libertas	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Casual Shipholding Co. ⁽¹²⁾	Navios Sol	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Avery Shipping Company	Navios Symphony	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Coasters Ventures Ltd.	Navios Christine B	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Ianthe Maritime S.A.	Navios Aster	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Rubina Shipping Corporation	Hyundai Hongkong	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Topaz Shipping Corporation	Hyundai Singapore	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Beryl Shipping Corporation	Hyundai Tokyo	Marshall Is.	1/01 – 09/30	1/01 – 09/30

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Cheryl Shipping Corporation	Hyundai Shanghai	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Christal Shipping Corporation	Hyundai Busan	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Dune Shipping Corp.(6)	MSC Cristina	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Citrine Shipping Corporation	—	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Cavalli Navigation Inc.	—	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Seymour Trading Limited	Navios Altair I	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Goldie Services Company	Navios Symmetry	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Andromeda Shiptrade Limited	Navios Apollon I	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Esmeralda Shipping Corporation	Navios Sphera	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Triangle Shipping Corporation	Navios Mars	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Oceanus Shipping Corporation(7)	Castor N	Marshall Is.	1/01 – 09/30	—
Cronus Shipping Corporation(7)	Protostar N	Marshall Is.	1/01 – 09/30	—
Leto Shipping Corporation(7)	Esperanza N	Marshall Is.	1/01 – 09/30	—
Dionysus Shipping Corporation(7)	Harmony N	Marshall Is.	1/01 – 09/30	—
Prometheus Shipping Corporation(7)	Solar N	Marshall Is.	1/01 – 09/30	—
Camelia Shipping Inc.(8)	Navios Camelia	Marshall Is.	1/01 – 09/30	—
Anthos Shipping Inc.(8)	Navios Anthos	Marshall Is.	1/01 – 09/30	—
Azalea Shipping Inc.(8)	Navios Azalea	Marshall Is.	1/01 – 09/30	—
Amaryllis Shipping Inc.(8)	Navios Amaryllis	Marshall Is.	1/01 – 09/30	—
Zaffre Shipping Corporation(13)	Serenitas N	Marshall Is.	06/29 – 09/30	—
Wenge Shipping Corporation(13)	Joie N	Marshall Is.	06/29 – 09/30	—
Sunstone Shipping Corporation(13)	Copernicus N	Marshall Is.	06/29 – 09/30	—
Fandango Shipping Corporation(13)	Unity N	Marshall Is.	06/29 – 09/30	—
Flavescent Shipping Corporation(13)	Odysseus N	Marshall Is.	06/29 – 09/30	—
Emery Shipping Corporation(14)	Navios Gem	Marshall Is.	09/30 – 09/30	—
Rondine Management Inc. (14)	Navios Victory	Marshall Is.	09/30 – 09/30	—
Bareboat Chartered-in vessels				
Cavos Navigation Co.(9)	Navios Libra	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Perivoia Shipmanagement Co.(10)	Navios TBN1	Marshall Is.	1/01 – 09/30	09/25 – 09/30
Pleione Management Limited(10)	Navios TBN2	Marshall Is.	1/01 – 09/30	09/25 – 09/30
Other				
Prosperity Shipping Corporation	—	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Aldebaran Shipping Corporation	—	Marshall Is.	1/01 – 09/30	1/01 – 09/30
JTC Shipping and Trading Ltd.(11)	Holding Company	Malta	1/01 – 09/30	1/01 – 09/30
Navios Maritime Partners L.P.	N/A	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Navios Maritime Operating LLC	N/A	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Navios Partners Finance (US) Inc.	Co-Borrower	Delaware	1/01 – 09/30	1/01 – 09/30
Navios Partners Europe Finance Inc.	Sub-Holding Company	Marshall Is.	1/01 – 09/30	1/01 – 09/30

- (1) The vessel was sold on December 14, 2018.
- (2) The vessel was sold on December 4, 2018.
- (3) The vessel was sold on December 21, 2017.
- (4) The vessel was sold on April 23, 2019 (see Note 4 – Vessels, net).
- (5) The vessel was sold on April 21, 2017.
- (6) The vessel was sold on January 12, 2017.
- (7) The vessels were acquired on December 13, 2019, following the liquidation of Navios Europe I (see Note 4 – Vessels, net).
- (8) The vessels were acquired on December 16, 2019 (see Note 4 – Vessels, net).
- (9) The vessel was delivered on July 24, 2019 (see Note 17 – Leases).
- (10) The vessels are expected to be delivered by first half of 2021 (see Note 11 – Commitments and Contingencies).
- (11) Not a vessel-owning subsidiary and only holds right to charter-in contracts.
- (12) Vessels under the sale and leaseback transaction (see Note 17 – Leases).
- (13) The vessels were acquired on June 29, 2020, following the liquidation of Navios Europe II (see Note 4 – Vessels, net).
- (14) The vessels were acquired on September 30, 2020, from Navios Holdings (see Note 4 – Vessels, net).

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The accompanying interim condensed consolidated financial statements of Navios Partners are unaudited, but, in the opinion of management, contain all adjustments necessary to present a fair statement of results, in all material respects, of Navios Partners' condensed consolidated financial position as of September 30, 2020 and the condensed Consolidated Statements of Operations for the three and nine month periods ended September 30, 2020 and 2019. The footnotes are condensed as permitted by the requirements for interim financial statements and, accordingly, do not include information and disclosures required under U.S. GAAP for complete financial statements. All such adjustments are deemed to be of a normal, recurring nature. The results of operations for the interim periods are not necessarily indicative of the results to be expected for the full year. These financial statements should be read in conjunction with the consolidated financial statements and related notes included in Navios Partners' Annual Report on Form 20-F for the year ended December 31, 2019.

Fleet Employment Profile

The following table reflects certain key indicators of Navios Partners' core fleet performance for the three and nine month periods ended September 30, 2020 and 2019.

	Three Month Period Ended September 30, 2020 (unaudited)	Three Month Period Ended September 30, 2019 (unaudited)	Nine Month Period Ended September 30, 2020 (unaudited)	Nine Month Period Ended September 30, 2019 (unaudited)
Available Days ⁽¹⁾	4,499	3,240	12,625	9,720
Operating Days ⁽²⁾	4,472	3,189	12,465	9,586
Fleet Utilization ⁽³⁾	99.4%	98.4%	98.7%	98.6%
Time Charter Equivalent Combined (per day) ⁽⁴⁾	\$ 13,652	\$ 18,778	\$ 11,917	\$ 15,369
Time Charter Equivalent Drybulk (per day) ⁽⁴⁾	\$ 12,955	\$ 16,817	\$ 10,316	\$ 12,880
Time Charter Equivalent Containers (per day) ⁽⁴⁾	\$ 16,690	\$ 30,631	\$ 17,993	\$ 30,605
Vessels operating at end of periods	53	37	53	37

- (1) **Available days:** Available days for the fleet represent total calendar days the vessels were in Navios Partners' possession for the relevant period after subtracting off-hire days associated with scheduled repairs, dry dockings or special surveys. The shipping industry uses available days to measure the number of days in a relevant period during which a vessel is capable of generating revenues.
- (2) **Operating days:** Operating days is the number of available days in the relevant period less the aggregate number of days that the vessels are off-hire. Operating days include ballast days between voyages. The shipping industry uses operating days to measure the aggregate number of days in a relevant period during which vessels actually generate revenues.
- (3) **Fleet utilization:** Fleet utilization is the percentage of time that Navios Partners' vessels were available for revenue generating available days, and is determined by dividing the number of operating days during a relevant period by the number of available days during that period. The shipping industry uses fleet utilization to measure efficiency in finding employment for vessels and minimizing the amount of days that its vessels are off-hire for reasons other than scheduled repairs, dry dockings or special surveys.
- (4) **TCE rate:** Time Charter Equivalent rate per day ("TCE") is defined as voyage and time charter revenues less voyage expenses during a period divided by the number of available days during the period. The TCE rate per day is a standard shipping industry performance measure used primarily to present the actual daily earnings generated by vessels on various types of charter contracts for the number of available days of the fleet.

FINANCIAL HIGHLIGHTS

The following table presents consolidated revenue and expense information for the three and nine month periods ended September 30, 2020 and 2019.

	Three Month Period Ended September 30, 2020 (unaudited)	Three Month Period Ended September 30, 2019 (unaudited)	Nine Month Period Ended September 30, 2020 (unaudited)	Nine Month Period Ended September 30, 2019 (unaudited)
Time charter and voyage revenues	\$ 64,499	\$ 63,548	\$ 157,538	\$ 158,111
Time charter and voyage expenses	(3,609)	(2,708)	(8,647)	(8,721)
Direct vessel expenses	(2,736)	(1,710)	(7,670)	(4,823)
Vessel operating expenses (management fees)	(24,289)	(16,695)	(68,424)	(49,801)
General and administrative expenses	(4,716)	(3,897)	(15,844)	(14,425)
Depreciation and amortization	(14,153)	(13,171)	(41,453)	(39,903)
Vessels impairment loss	(1,780)	—	(8,580)	(7,345)
Impairment of receivable in affiliated company	—	—	(6,900)	—
Interest expense and finance cost, net	(5,417)	(11,432)	(18,636)	(35,192)
Interest income	143	1,858	514	5,392
Other income	161	105	2,344	696
Other expense	(730)	(403)	(3,202)	(4,725)
Equity in net (loss)/ earnings of affiliated companies	(382)	1,364	586	1,549
Net income/ (loss)	\$ 6,991	\$ 16,859	\$ (18,374)	\$ 813
EBITDA⁽¹⁾	\$ 29,143	\$ 41,309	\$ 48,814	\$ 75,321
Adjusted EBITDA⁽¹⁾	\$ 30,923	\$ 41,309	\$ 64,294	\$ 86,304
Operating Surplus⁽¹⁾	\$ 16,011	\$ 25,726	\$ 19,314	\$ 37,635

- (1) EBITDA, Adjusted EBITDA and Operating Surplus are non-GAAP financial measures. See “Reconciliation of EBITDA and Adjusted EBITDA to Net Cash from Operating Activities, EBITDA, Operating Surplus and Available Cash for Distribution” for a description of EBITDA, Adjusted EBITDA and Operating Surplus and a reconciliation of EBITDA, Adjusted EBITDA and Operating Surplus to the most comparable measure under U.S. GAAP.

Period over Period Comparisons

For the Three Month Period ended September 30, 2020 compared to the Three Month Period ended September 30, 2019

Time charter and voyage revenues: Time charter and voyage revenues for the three month period ended September 30, 2020 increased by \$1.0 million, or 1.5%, to \$64.5 million, as compared to \$63.5 million for the same period in 2019. The increase in time charter and voyage revenues was mainly attributable to the increase in the size of our fleet. For the three month period ended September 30, 2020, the time charter equivalent rate, or TCE rate, decreased to \$13,652 per day, in relation to \$18,778 per day which was for the three month period ended September 30, 2019. The available days of the fleet increased to 4,499 days for the three month period ended September 30, 2020, as compared to 3,240 days for the three month period ended September 30, 2019.

Time charter and voyage expenses: Time charter and voyage expenses for the three month period ended September 30, 2020 increased by \$0.9 million, or 33.3%, to \$3.6 million, as compared to \$2.7 million for the three month period ended September 30, 2019. The increase was mainly attributable to a: (i) \$0.6 million increase in bunkers expenses; (ii) \$0.1 million increase in brokers’ commission; (iii) \$0.1 million net increase in voyage expenses; and (iv) \$0.1 million increase in bareboat charter-in hire expense.

Direct vessel expenses: Direct vessel expenses for the three month period ended September 30, 2020 increased by \$1.0 million, or 60.0% to \$2.7 million as compared to \$1.7 million for the same period in 2019. The increase of \$1.0 million was attributable to the increase in amortization of drydock and special survey costs of certain vessels in our fleet.

Vessel operating expenses (management fees): Vessel operating expenses for the three month period ended September 30, 2020, increased by \$7.6 million, or 45.5%, to \$24.3 million, as compared to \$16.7 million for the same period in 2019. The increase was mainly attributable to a: (i) \$6.7 million increase in management fees paid to our manager, Navios Shipmanagement Inc. (the “Manager”) due to the increased number of available days in Navios Partners’ fleet; and (ii) \$0.9 million increase in management fees due to the increase in daily rate pursuant to the Management Agreement (as defined herein).

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General and administrative expenses: General and administrative expenses increased by \$0.8 million, or 21.0%, to \$4.7 million for the three month period ended September 30, 2020, as compared to \$3.9 million for the three month period ended September 30, 2019. The increase was mainly due to a: (i) \$1.0 million increase in administrative fees paid to the Manager due to the increased number of available days in Navios Partners' fleet; and (ii) \$0.1 million net increase in legal and professional fees, as well as audit fees and other administrative expenses. The above increase was partially mitigated by a \$0.3 million decrease in equity compensation expense.

Depreciation and amortization: Depreciation and amortization increased by \$1.0 million, or 7.5%, to \$14.2 million for the three month period ended September 30, 2020, as compared to \$13.2 million for the three month period ended September 30, 2019. The increase of \$1.0 million was mainly attributable to a \$1.5 million increase in depreciation expense due to the delivery of nine vessels in December 2019 and five vessels in June 2020. The above increase was partially mitigated by a \$0.6 million decrease in depreciation expense of one of our vessels as a result of the impairment test performed in the fourth quarter of the fiscal year 2019. Depreciation of vessels is calculated using an estimated useful life of 25 and 30 years for drybulk vessels and containerships, respectively, from the date the vessel was originally delivered from the shipyard. Intangible assets are amortized over the contract periods, which range from one to twelve years, at inception.

Vessels impairment loss: As of September 30, 2020, the Company had a current expectation that the Esperanza N would be sold before the end of its previously estimated useful life, and as a result performed an impairment test of the specific asset group and recorded an impairment loss of \$1.8 million. There was no impairment loss for the corresponding interim period of the previous year.

Interest expense and finance cost, net: Interest expense and finance cost, net for the three month period ended September 30, 2020 decreased by \$6.0 million or 52.6% to \$5.4 million, as compared to \$11.4 million for the three month period ended September 30, 2019. The decrease was mainly due to a: (i) decrease of the weighted average interest rate for the three month period ended September 30, 2020 to 4.01% from 6.77% for the same period in 2019; and (ii) \$1.4 million write-off of the deferred finance costs and debt discount following the \$85.5 million prepayments of the Term Loan B Facility in the third quarter of 2019. The above decrease was partially mitigated by the increase in Navios Partners' average loan balance to \$483.1 million for the three month period ended September 30, 2020 as compared to \$475.5 million for the same period of 2019.

Interest income: Interest income for the three month period September 30, 2020 decreased by \$1.7 million, to \$0.1 million, as compared to \$1.9 million for the three month period ended September 30, 2019.

Other income: Other income for the three month period ended September 30, 2020 amounted to \$0.2 million, as compared to \$0.1 million for the three month period ended September 30, 2019.

Other expense: Other expense for the three month period ended September 30, 2020 amounted to \$0.7 million, as compared to \$0.4 million for the three month period ended September 30, 2019.

Equity in net (loss)/ earnings of affiliated companies: Equity in net loss of affiliated companies for the three month period ended September 30, 2020 amounted to \$(0.4) million as compared to \$1.4 million in net earnings for the three month period ended September 30, 2019. The amounts consisted of the income/ (loss) related to the investment in Navios Maritime Containers L.P. ("Navios Containers").

Net income: Net income for the three month period ended September 30, 2020 amounted to \$7.0 million as compared to \$16.9 million for the three month period ended September 30, 2019. The decrease in net income of \$9.9 million was due to the factors discussed above.

Operating surplus: Navios Partners generated Operating surplus for the three month period ended September 30, 2020 of \$16.0 million, as compared to operating surplus of \$25.7 million for the three month period ended September 30, 2019. Operating Surplus is a non-GAAP financial measure used by certain investors to assist in evaluating a partnership's ability to make quarterly cash distributions (See "Reconciliation of EBITDA and Adjusted EBITDA to Net Cash from Operating Activities, EBITDA, Operating Surplus and Available Cash for Distribution" contained herein).

For the Nine Month Period ended September 30, 2020 compared to the Nine Month Period ended September 30, 2019

Time charter and voyage revenues: Time charter and voyage revenues for the nine month period ended September 30, 2020 decreased by \$0.6 million, or 0.4%, to \$157.5 million, as compared to \$158.1 million for the same period in 2019. The decrease in time charter and voyage revenues was mainly attributable to the decrease in the TCE rate to \$11,917 per day for the nine month period ended September 30, 2020 from \$15,369 per day for the nine month period ended September 30, 2019. The available days of the fleet increased to 12,625 days for the nine month period ended September 30, 2020, as compared to 9,720 days for the nine month period ended September 30, 2019, mainly due to the increase in the size of our fleet.

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Time charter and voyage expenses: Time charter and voyage expenses for the nine month period ended September 30, 2020 amounted to \$8.6 million, as compared to \$8.7 million for the three month period ended September 30, 2019.

Direct vessel expenses: Direct vessel expenses for the nine month periods ended September 30, 2020 increased by \$2.8 million, or 59.0%, to \$7.7 million, as compared to \$4.8 million for the same period in 2019. The increase of \$2.8 million was attributable to the increase in amortization of drydock and special survey costs of certain vessels in our fleet.

Vessel operating expenses (management fees): Vessel operating expenses for the nine month period ended September 30, 2020, increased by \$18.6 million, or 37.4%, to \$68.4 million, as compared to \$49.8 million for the same period in 2019. The increase was mainly attributable to a: (i) \$16.6 million increase in management fees paid to the Manager due to the increased number of available days in Navios Partners' fleet; and (ii) \$2.5 million increase in management fees due to the increase in daily rate pursuant to the Management Agreement (as defined herein). The above increase was partially mitigated by a \$0.5 million decrease in management fees due to the sale of the Navios Galaxy I in April 2019.

General and administrative expenses: General and administrative expenses increased by \$1.4 million, or 9.8% to \$15.8 million for the nine month period ended September 30, 2020, as compared to \$14.4 million for the nine month period ended September 30, 2019. The increase was mainly due to a \$2.3 million increase in administrative fees paid to the Manager due to the increased number of available days in Navios Partners' fleet. The above increase was partially mitigated by a: (i) \$0.5 million net decrease in compensation to the directors and/or officers of the Company and equity compensation expense; and (ii) \$0.4 million net decrease in legal and professional fees, as well as audit fees and other administrative expenses.

Depreciation and amortization: Depreciation and amortization increased by \$1.6 million, or 3.9% to \$41.5 million for the nine month period ended September 30, 2020, as compared to \$39.9 million for the nine month period ended September 30, 2019. The increase was mainly attributable to a \$3.6 million increase in depreciation expense due to the delivery of nine vessels in December 2019 and five vessels in June 2020. The above increase was partially mitigated by a: (i) \$0.4 million decrease in depreciation expense due to the sale of the Navios Galaxy I in April 2019; and (ii) \$1.9 million decrease in depreciation expense of one of our vessels as a result of the impairment test performed in the fourth quarter of the fiscal year 2019. Depreciation of vessels is calculated using an estimated useful life of 25 and 30 years for drybulk vessels and containerships, respectively, from the date the vessel was originally delivered from the shipyard. Intangible assets are amortized over the contract periods, which range from one to twelve years, at inception.

Vessels impairment loss: During the nine months ended September 30, 2020, Navios Partners recognized: (i) an impairment loss of \$6.8 million of three containerships as the undiscounted projected cash flows did not exceed the vessels' carrying value; and (ii) an impairment loss of \$1.8 million related to the sale of the Esperanza N, as the Company had a current expectation that would be sold before the end of its previously estimated useful life. During the nine months ended September 30, 2019, Navios Partners recognized an impairment loss of \$7.3 million related to the sale of Navios Galaxy I which was completed on April 23, 2019 (see Note 4 – vessels, net).

Impairment of receivable in affiliated company: Impairment of receivable in affiliated company for the nine month period ended September 30, 2020 amounted to \$6.9 million, related to the other-than-temporary impairment recognized in the Navios Partners' receivable from Navios Europe II. There was no impairment for the corresponding interim period of the previous year.

Interest expense and finance cost, net: Interest expense and finance cost, net for the nine month period ended September 30, 2020 decreased by \$16.6 million or 47.0% to \$18.6 million, as compared to \$35.2 million for the nine month period ended September 30, 2019. The decrease was mainly due to: (i) a decrease of the weighted average interest rate for the nine month period ended September 30, 2020 to 4.69% from 7.11% for the same period in 2019; (ii) a \$2.9 million write-off of the deferred finance costs and debt discount following the prepayments of the Term Loan B Facility in the nine month period ended September 30, 2019; and (iii) the decrease in Navios Partners' average loan balance to \$479.6 million for the nine month period ended September 30, 2020 as compared to \$495.2 million for the same period of 2019.

Interest income: Interest income decreased by \$4.9 million to \$0.5 million for the nine month period ended September 30, 2020, as compared to \$5.4 million for the nine month period ended September 30, 2019.

Other income: Other income for the nine month period ended September 30, 2020 amounted to \$2.3 million, as compared to \$0.7 million for the nine month period ended September 30, 2019.

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Other expense: Other expense for the nine month period ended September 30, 2020 amounted to \$3.2 million, as compared to \$4.7 million for the nine month period ended September 30, 2019.

Equity in net earnings of affiliated companies: Equity in net earnings of affiliated companies for the nine month period ended September 30, 2020 amounted to \$0.6 million as compared to \$1.5 million for the nine month period ended September 30, 2019. The amounts consisted of the income related to the investment in Navios Containers.

Net (loss)/ income: Net loss for the nine month period ended September 30, 2020 amounted to \$(18.4) million as compared to \$0.8 million net income for the nine month period ended September 30, 2019. The increase in net loss of \$19.2 million was due to the factors discussed above.

Operating surplus: Navios Partners generated Operating Surplus for the nine month period ended September 30, 2020 of \$19.3 million, as compared to \$37.6 million for the nine month period ended September 30, 2019. Operating Surplus is a non-GAAP financial measure used by certain investors to assist in evaluating a partnership's ability to make quarterly cash distributions (See "Reconciliation of EBITDA and Adjusted EBITDA to Net Cash from Operating Activities, EBITDA, Operating Surplus and Available Cash for Distribution" contained herein).

Liquidity and Capital Resources

In addition to distributions on our units, our primary short-term liquidity needs are to fund general working capital requirements, cash reserve requirements including those under our credit facilities and debt service, while our long-term liquidity needs primarily relate to expansion and investment capital expenditures and other maintenance capital expenditures and debt repayment. Expansion capital expenditures are primarily for the purchase or construction of vessels to the extent the expenditures increase the operating capacity of or revenue generated by our fleet, while maintenance capital expenditures primarily consist of drydocking expenditures and expenditures to replace vessels in order to maintain the operating capacity of or revenue generated by our fleet. Investment capital expenditures are those capital expenditures that are neither maintenance capital expenditures nor expansion capital expenditures. We anticipate that our primary sources of funds for our short-term liquidity needs will be cash flows from our equity offerings, operations, proceeds from asset sales, long-term bank borrowings and other debt raisings. As of September 30, 2020, Navios Partners' current assets totaled \$67.1 million, while current liabilities totaled \$277.1 million, resulting in a negative working capital position of \$209.9 million, primarily related to balloon payments totaling \$131.5 million due under its credit facilities in the second and third quarters of 2021. The vessels have an aggregate fair value significantly in excess of the outstanding debt which Management expects will enable the repayment of the above balloon payments either through refinancing with existing or new commercial banks and other financial institutions or sale of the vessels. In the meantime, Navios Partners' cash forecast indicates that it will generate sufficient cash to make the required principal and interest payments on its indebtedness (excluding the balloon payments), provide for the normal working capital requirements of the business for a period of at least twelve months from the date of issuance of these condensed consolidated financial statements. Generally, our long-term sources of funds derive from cash from operations, long-term bank borrowings and other debt or equity financings to fund acquisitions and expansion and investment capital expenditures, including opportunities we may pursue under the Omnibus Agreement. We cannot assure you that we will be able to secure adequate financing or to obtain additional funds on favorable terms, to meet our liquidity needs.

Cash deposits and cash equivalents in excess of amounts covered by government provided insurance are exposed to loss in the event of non-performance by financial institutions. Navios Partners does maintain cash deposits and equivalents in excess of government provided insurance limits. Navios Partners also minimizes exposure to credit risk by dealing with a diversified group of major financial institutions.

Navios Partners may use funds to repurchase its outstanding common units and/or indebtedness from time to time. Repurchases may be made in the open market, or through privately negotiated transactions or otherwise, in compliance with applicable laws, rules and regulations, at prices and on terms Navios Partners deems appropriate and subject to its cash requirements for other purposes, compliance with the covenants under Navios Partners' credit facilities, and other factors management deems relevant.

In January 2019, the Board of Directors of Navios Partners authorized a common unit repurchase program for up to \$50.0 million of the Company's common units over a two year period. Common unit repurchases will be made from time to time for cash in open market transactions at prevailing market prices or in privately negotiated transactions. The timing and amount of repurchases under the program will be determined by Navios Partners' management based upon market conditions and other factors. Repurchases may be made pursuant to a program adopted under Rule 10b5-1 under the Securities Exchange Act of 1934, as amended. The program does not require any minimum repurchase or any specific number of common units and may be suspended or reinstated at any time in the Company's discretion and without notice. The Board of Directors will review the program periodically. Repurchases will be subject to restrictions under the Company's credit facilities. As of November 17, 2020, the Company had repurchased and cancelled 312,952 common units, on a split adjusted basis, at a total cost of approximately \$4.5 million.

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On November 18, 2016, Navios Partners entered into a Continuous Offering Program Sales Agreement for the issuance and sale from time to time through its agent common units having an aggregate offering price of up to \$25.0 million. An amended Sales Agreement was entered into on August 3, 2020. As of November 17, 2020, since the commencement of the amended Sales Agreement, Navios Partners has issued 357,508 units and received net proceeds of \$2.3 million. Pursuant to the issuance of the common units, Navios Partners issued 7,298 general partnership units to its General Partner in order to maintain its 2.0% general partner interest. The net proceeds from the issuance of the general partnership units were approximately \$0.05 million.

Long-Term Debt Obligations

Navios Partners' long-term borrowings are presented under the captions "Long-term financial liabilities, net", "Long-term debt, net", "Current portion of financial liabilities, net" and "Current portion of long-term debt, net". As of September 30, 2020 and December 31, 2019, total borrowings, net of deferred finance costs amounted to \$505.7 million and \$489.0 million, respectively. The current portion of long-term borrowings, net amounted to \$204.6 million at September 30, 2020 and \$59.8 million at December 31, 2019.

Credit Facilities

As of September 30, 2020, the Company had secured credit facilities with various commercial banks with a total outstanding balance of \$445.1 million. The purpose of the facilities was to finance the construction or acquisition of vessels or refinance existing indebtedness. All of the facilities are denominated in U.S. dollars and bear interest based on LIBOR plus spread ranging from 2.6% to 7.0% per annum. The facilities are repayable in either semi-annual or quarterly installments, followed by balloon payments with maturities, ranging from June 2021 to September 2025. See also the maturity table included below.

On September 30, 2020, the Company entered into a second supplemental agreement with ABN Amro Bank N.V., to extend the terms of the then outstanding balance. The Company had initially entered into a credit facility with ABN Amro Bank N.V., on December 12, 2019, of up to \$23.5 million, in order to finance the acquisition of the five containerships acquired from Navios Europe I, which had subsequently been refinanced from Hellenic Bank Public Company Limited in June 2020. Following the second supplemental agreement, the outstanding balance of \$3.5 million is repayable in three consecutive quarterly installments of \$0.2 million with a final balloon payment of \$3.0 million to be repaid on the last repayment date. The facility matures in the second quarter of 2021 and bears interest at LIBOR plus 400 bps per annum up to February 28, 2019 and 600 bps per annum up to maturity date. As of September 30, 2020, the total outstanding balance was \$3.5 million.

On September 28, 2020, the Company entered into a new credit facility with Credit Agricole Corporate and Investment Bank of up to \$33.0 million in order to finance the acquisition of the two drybulk vessels from Navios Holdings. The credit facility is repayable in 20 consecutive quarterly installments of \$0.85 million with a final balloon payment of \$16.0 million to be repaid on the last repayment date. The facility matures in the third quarter of 2025 and bears interest at LIBOR plus 325 bps per annum up to maturity date. As of September 30, 2020, the total outstanding balance was \$33.0 million.

On June 26, 2020, the Company entered into a new credit facility with ABN Amro Bank N.V. of up to \$32.2 million in order to finance the acquisition of the five drybulk vessels from Navios Europe II. The credit facility is repayable in four consecutive quarterly installments of \$1.2 million, with a final balloon payment of \$24.7 million to be repaid on the last repayment date. The facility matures in the second quarter of 2021 and bears interest at LIBOR plus 400 bps per annum up to December 31, 2020 and 425 bps per annum up to maturity date. As of September 30, 2020, the total outstanding balance was \$28.3 million.

On June 25, 2020, the Company entered into a new credit facility with Hellenic Bank Public Company Limited in order to refinance the existing credit facility, relating to four of the containerships acquired from Navios Europe I, of up to \$17.0 million. The credit facility is repayable in four consecutive quarterly installments of \$0.5 million and ten consecutive quarterly installments of \$0.7 million, with a final balloon payment of \$8.3 million to be repaid on the last repayment date. The facility matures in the fourth quarter of 2023 and bears interest at LIBOR plus 350 bps per annum. As of September 30, 2020, the total outstanding balance was \$16.5 million.

Amounts drawn under the credit facilities are secured by first preferred mortgages on certain Navios Partners' vessels and other collateral and are guaranteed by the respective vessel-owning subsidiaries. The credit facilities contain a number of restrictive covenants that prohibit or limit Navios Partners from, among other things: incurring or guaranteeing indebtedness; entering into affiliate transactions; charging, pledging or encumbering the vessels; changing the flag, class, management or ownership of Navios Partners' vessels; changing the commercial and technical management of Navios Partners' vessels; selling or changing the beneficial ownership or control of Navios Partners' vessels; not maintaining Navios Holdings' (or its affiliates) ownership in Navios Partners of at least 15.0%; and subordinating the obligations under the credit facilities to any general and administrative costs relating to the vessels, including the fixed daily fee payable under the management agreement.

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The credit facilities require compliance with a number of financial covenants, including: (i) maintain a required security amount ranging over 120% to 140%; (ii) minimum free consolidated liquidity in an amount equal to at least \$0.5 million to \$0.65 million per owned vessel; (iii) maintain a ratio of EBITDA to interest expense of at least 2.00:1.00; (iv) maintain a ratio of total liabilities or total debt to total assets (as defined in our credit facilities) of less than 0.75; and (v) maintain a minimum net worth to \$135.0 million.

It is an event of default under the credit facilities if such covenants are not complied with in accordance with the terms and subject to the prepayments or cure provisions of the facilities.

As of September 30, 2020, Navios Partners was in compliance with the financial covenants and/or the prepayments and/or the cure provisions, as applicable, in each of its credit facilities.

Financial Liabilities

In December 2018, the Company entered into two sale and leaseback agreements of \$25.0 million in total, with unrelated third parties for the Navios Fantastiks and the Navios Beaufiks. Navios Partners has a purchase obligation to acquire the vessels at the end of the lease term and under ASC 842-40, the transfer of the vessels was determined to be a failed sale. In accordance with ASC 842-40, the Company did not derecognize the respective vessels from its balance sheet and accounted for the amounts received under the sale and leaseback agreements as a financial liability. Navios Partners is obligated to make 69 and 60 consecutive monthly payments, respectively, of approximately \$0.16 million each, commencing as of December 2018. As of September 30, 2020, the outstanding balance under the sale and leaseback agreements of the Navios Fantastiks and the Navios Beaufiks was \$21.3 million in total. The agreements mature in the third quarter of 2024 and fourth quarter of 2023, respectively, with a purchase obligation of \$6.3 million per vessel on the last repayment date.

On April 5, 2019, the Company entered into a sale and leaseback agreement of \$20.0 million, with unrelated third parties for the Navios Sol, a 2009-built Capesize vessel of 180,274 dwt. Navios Partners has a purchase obligation to acquire the vessel at the end of the lease term and under ASC 842-40, the transfer of the vessel was determined to be a failed sale. On April 11, 2019, the amount of \$20.0 million was drawn. Navios Partners is obligated to make 120 consecutive monthly payments of approximately \$0.19 million each, commencing as of April 2019. As of September 30, 2020, the outstanding balance under the sale and leaseback agreement of the Navios Sol was \$18.3 million. The agreement matures in the second quarter of 2029, with a purchase obligation of \$6.3 million on the last repayment date.

On June 7, 2019, the Company entered into a sale and leaseback agreement of \$7.5 million, with unrelated third parties for the Navios Sagittarius, a 2006-built Panamax vessel of 75,756 dwt. Navios Partners has a purchase obligation to acquire the vessel at the end of the lease term and under ASC 842-40, the transfer of the vessel was determined to be a failed sale. On June 28, 2019, the amount of \$7.5 million was drawn. Navios Partners is obligated to make 36 consecutive monthly payments of approximately \$0.18 million each, commencing as of June 2019. As of September 30, 2020, the outstanding balance under the sale and leaseback agreement of the Navios Sagittarius was \$5.2 million. The agreement matures in the second quarter of 2022, with a purchase obligation of \$2.0 million on the last repayment date.

On July 2, 2019, the Company entered into a sale and leaseback agreement of \$22.0 million, with unrelated third parties for the Navios Ace, a 2011-built Capesize vessel of 179,016 dwt. Navios Partners has a purchase obligation to acquire the vessel at the end of the lease term and under ASC 842-40, the transfer of the vessel was determined to be a failed sale. The vessel was not derecognized and continues to be depreciated over its useful life and tested for impairment as per the Company's policy. On July 24, 2019, the amount of \$22.0 million was drawn. Navios Partners is obligated to make 132 consecutive monthly payments of approximately \$0.2 million each, commencing as of July 2019. As of September 30, 2020, the outstanding balance under the sale and leaseback agreement of the Navios Ace was \$20.6 million. The agreement matures in the third quarter of 2030, with a purchase obligation of \$6.3 million on the last repayment date.

The maturity table below reflects the principal payments for the next five years and thereafter of all borrowings of Navios Partners outstanding as of September 30, 2020 based on the repayment schedules of the respective credit facilities and financial liabilities (as described above).

<u>Year</u>	<u>Amount in millions of U.S. dollars</u>
2021	\$ 206.7
2022	71.6
2023	65.1
2024	97.7
2025 and thereafter	69.5
Total	\$ 510.6

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The following table presents cash flow information derived from the unaudited condensed Consolidated Statements of Cash Flows of Navios Partners for the nine month periods ended September 30, 2020 and 2019.

	Nine Month Period Ended September 30, 2020 (\$ '000) (unaudited)	Nine Month Period Ended September 30, 2019 (\$'000) (unaudited)
Net cash provided by operating activities	\$ 68,700	\$ 47,095
Net cash used in investing activities	(78,346)	(6,884)
Net cash provided by/ (used in) financing activities	9,859	(75,671)
Increase/ (decrease) in cash, cash equivalents and restricted cash	\$ 213	\$ (35,460)

Cash provided by operating activities for the nine month period ended September 30, 2020 as compared to the cash provided by operating activities for the nine month period ended September 30, 2019

Net cash provided by operating activities increased by \$21.6 million to \$68.7 million for the nine month period ended September 30, 2020, as compared to \$47.1 million for the same period in 2019. In determining net cash provided by operating activities, net loss is adjusted for the effects of certain non-cash items as discussed below.

The aggregate adjustments to reconcile net loss to net cash provided by operating activities was a \$65.8 million non-cash gain for the nine month period ended September 30, 2020, which consisted mainly of the following adjustments: \$41.5 million depreciation and amortization, \$6.9 million loss related to the other-than-temporary impairment recognized in the Navios Partners' receivable from Navios Europe II, \$6.8 million impairment loss related to three containerships and \$1.8 million impairment loss in relation to the sale of the Esperanza N, \$0.7 million amortization of operating lease right-of-use asset, \$1.6 million amortization and write-off of deferred finance costs and discount, \$7.6 million amortization of deferred dry dock and special survey costs, \$0.7 million equity compensation expense, \$0.6 million equity in net earnings of affiliated companies and \$1.2 million non-cash accrued interest income and amortization of deferred revenue. The net cash inflow resulting from the change in operating assets and liabilities of \$21.3 million for the nine month period ended September 30, 2020 resulted from a \$31.9 million increase in amounts due to related parties, a \$15.6 million decrease in amounts due from related parties, a \$0.4 million decrease in accounts receivable and a \$0.2 million increase in accrued expenses. This was partially mitigated by a \$2.0 million increase in prepaid expenses and other current assets, a \$0.4 million decrease in deferred revenue, a \$2.3 million decrease in accounts payable, a \$0.8 million decrease in operating lease liabilities short and long term and a \$21.3 million in payments for dry dock and special survey costs.

The aggregate adjustments to reconcile net income to net cash provided by operating activities was a \$49.8 million non-cash gain for the nine month period ended September 30, 2019, which consisted mainly of the following adjustments: \$39.9 million depreciation and amortization, \$7.3 million impairment loss in relation to the sale of the Navios Galaxy I, \$9.5 million non-cash accrued interest income and amortization of deferred revenue, \$0.2 million non-cash accrued interest income from receivable from affiliates, \$0.2 million amortization of operating lease right-of-use asset, \$7.3 million amortization and write-off of deferred finance costs and discount, \$4.8 million amortization of deferred dry dock and special survey costs, \$1.5 million equity in net earnings of affiliated companies and \$1.5 million equity compensation expense. The net cash outflow resulting from the change in operating assets and liabilities of \$3.5 million for the nine month period ended September 30, 2019 resulted from a \$6.0 million increase in prepaid expenses and other current assets, a \$0.6 million decrease in deferred revenue, \$14.0 million in payments for dry dock and special survey costs and a \$0.2 million decrease in operating lease liabilities short and long term. This was partially mitigated by a \$6.9 million decrease in accounts receivable, a \$0.4 million increase in accounts payable, a \$0.6 million increase in accrued expenses and a \$9.4 million decrease in amounts due from related parties.

Cash used in investing activities for the nine month period ended September 30, 2020 as compared to the cash used in investing activities for the nine month period ended September 30, 2019

Net cash used in investing activities increased by \$71.5 million to \$78.3 million for the nine month period ended September 30, 2020, as compared to \$6.9 million for the same period in 2019.

Cash used in investing activities of \$78.3 million for the nine month period ended September 30, 2020 was mainly due to a: (i) \$71.4 million relating to vessel acquisitions and additions; and (ii) \$10.4 million relating to deposits for the option to acquire two bareboat charter-in vessels and capitalized expenses. This was partially mitigated by a \$3.5 million of proceeds from the note receivable related to the sale of the MSC Cristina.

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Cash used in investing activities of \$6.9 million for the nine month period ended September 30, 2019 was mainly due to a: (i) \$12.4 million payments relating to capitalized expenses of our fleet; and (ii) \$4.0 million loan granted to Navios Europe I. This was partially mitigated by a \$6.0 million of proceeds from the sale of the Navios Galaxy I and \$3.5 million of proceeds from the note receivable related to the sale of the MSC Cristina.

Cash provided by financing activities for the nine month period ended September 30, 2020 as compared to cash used in financing activities for the nine month period ended September 30, 2019

Net cash provided by financing activities increased by \$85.5 million to \$9.9 million inflow for the nine month period ended September 30, 2020, as compared to \$75.7 million outflow for the same period in 2019.

Cash provided by financing activities of \$9.9 million for the nine month period ended September 30, 2020 was mainly due to: (i) \$79.5 million of proceeds from the new credit facilities; and (ii) \$1.8 million of proceeds from the issuance of 280,318 common units and 5,546 additional general partner units related to the Continuous Offering Program Sales Agreement. This was partially offset by: (i) payment of a total cash distribution of \$7.3 million; (ii) loans and financial liabilities repayments of \$63.3 million; and (iii) a payment of \$0.8 million of deferred finance costs relating to the new credit facilities.

Cash used in financing activities of \$75.7 million for the nine month period ended September 30, 2019 was due to: (i) payment of a total cash distribution of \$10.2 million; (ii) loans and financial liabilities repayments of \$186.7 million; (iii) payments of \$3.6 million for deferred finance costs relating to the new credit facilities and sale and leaseback agreements; and (iv) payments of \$4.5 million in total for acquisition of treasury stock. This was partially offset by \$129.3 million of proceeds from the NIBC Credit Facility, the DVB \$66m Credit Facility and the CACIB Credit Facility and the financial liabilities of the Navios Sol, the Navios Sagittarius and the Navios Ace.

Reconciliation of EBITDA and Adjusted EBITDA to Net Cash from Operating Activities, EBITDA, Operating Surplus and Available Cash for Distribution

	Three Month Period Ended September 30, 2020 (\$ '000) (unaudited)	Three Month Period Ended September 30, 2019 (\$ '000) (unaudited)	Nine Month Period Ended September 30, 2020 (\$ '000) (unaudited)	Nine Month Period Ended September 30, 2019 (\$ '000) (unaudited)
Net cash provided by operating activities	\$ 21,025	\$ 32,669	\$ 68,700	\$ 47,095
Net decrease/ (increase) in operating assets	11,794	(2,058)	8,027	3,844
Net increase in operating liabilities	(6,152)	(174)	(29,333)	(354)
Net interest cost	5,274	9,574	18,122	29,800
Amortization and write-off of deferred finance costs	(552)	(2,625)	(1,570)	(7,258)
Amortization of operating lease right-of-use asset	(244)	(158)	(703)	(158)
Non cash accrued interest income and amortization of deferred revenue	400	3,168	1,188	9,471
Equity compensation expense	(240)	(524)	(723)	(1,537)
Vessels impairment loss	(1,780)	—	(8,580)	(7,345)
Impairment of receivable in affiliated company	—	—	(6,900)	—
Non cash accrued interest income from receivable from affiliates	—	73	—	214
Equity in net earnings of affiliated companies, net of dividends received	(382)	1,364	586	1,549
EBITDA(1)	\$ 29,143	\$ 41,309	\$ 48,814	\$ 75,321
Revision of estimated guarantee claim receivable	—	—	—	3,638
Impairment of receivable in affiliated company	—	—	6,900	—
Vessels impairment loss	1,780	—	8,580	7,345
Adjusted EBITDA(1)	\$ 30,923	\$ 41,309	\$ 64,294	\$ 86,304
Cash interest income	37	127	201	499
Cash interest paid	(5,458)	(8,557)	(18,511)	(27,281)
Maintenance and replacement capital expenditures	(9,491)	(7,153)	(26,670)	(21,887)
Operating surplus(2)	\$ 16,011	\$ 25,726	\$ 19,314	\$ 37,635
Cash distribution paid relating to the first half	—	—	(3,926)	(6,728)
Cash reserves	(15,432)	(22,362)	(14,809)	(27,543)
Available cash for distribution(3)	\$ 579	\$ 3,364	\$ 579	\$ 3,364

(1)

	Three Month Period Ended September 30, 2020 (\$ '000) (unaudited)	Three Month Period Ended September 30, 2019 (\$ '000) (unaudited)	Nine Month Period Ended September 30, 2020 (\$ '000) (unaudited)	Nine Month Period Ended September 30, 2019 (\$ '000) (unaudited)
Net cash provided by operating activities	\$ 21,025	\$ 32,669	\$ 68,700	\$ 47,095
Net cash used in investing activities	\$ (38,682)	\$ (5,248)	\$ (78,346)	\$ (6,884)
Net cash provided by/ (used in) financing activities	\$ 18,457	\$ (36,646)	\$ 9,859	\$ (75,671)

EBITDA and Adjusted EBITDA

EBITDA represents net income/ (loss) attributable to Navios Partners' unitholders before interest and finance costs, before depreciation and amortization (including intangible accelerated amortization) and income taxes. Adjusted EBITDA represents EBITDA before impairment losses. Navios Partners uses Adjusted EBITDA as a liquidity measure and reconcile EBITDA and Adjusted EBITDA to net cash provided by operating activities, the most comparable U.S. GAAP liquidity measure. EBITDA in this document is calculated as follows: net cash provided by operating activities adding back, when applicable and as the case may be, the effect of: (i) net decrease/ (increase) in operating assets; (ii) net increase/ (decrease) in operating liabilities; (iii) net interest cost; (iv) amortization and write-off of deferred finance costs; (v) equity in net earnings of affiliated companies, net of dividends received; (vi) impairment charges; (vii) non-cash accrued interest income and amortization of deferred revenue; (viii) equity compensation expense; (ix) non-cash accrued interest income from receivables; and (x) amortization of operating lease right-of-use asset. Navios Partners believes that EBITDA and Adjusted EBITDA are each the basis upon which liquidity can be assessed and presents useful information to investors regarding Navios Partners' ability to service and/or incur indebtedness, pay capital expenditures, meet working capital requirements and make cash distributions. Navios Partners also believes that EBITDA and Adjusted EBITDA are used: (i) by potential lenders to evaluate potential transactions; (ii) to evaluate and price potential acquisition candidates; and (iii) by securities analysts, investors and other interested parties in the evaluation of companies in our industry.

EBITDA and Adjusted EBITDA have limitations as an analytical tool, and should not be considered in isolation or as a substitute for the analysis of Navios Partners' results as reported under U.S. GAAP. Some of these limitations are: (i) EBITDA and Adjusted EBITDA do not reflect changes in, or cash requirements for, working capital needs; and (ii) although depreciation and amortization are non-cash charges, the assets being depreciated and amortized may have to be replaced in the future. EBITDA and Adjusted EBITDA do not reflect any cash requirements for such capital expenditures. Because of these limitations, EBITDA and Adjusted EBITDA should not be considered as a principal indicator of Navios Partners' performance. Furthermore, our calculation of EBITDA and Adjusted EBITDA may not be comparable to that reported by other companies due to differences in methods of calculation.

EBITDA for the three month period ended September 30, 2020 was negatively affected by the accounting effect of a \$1.8 million impairment loss related to the sale of the Esperanza N. Excluding this item, Adjusted EBITDA decreased by \$10.4 million to \$30.9 million for the three month period ended September 30, 2020, as compared to \$41.3 million for the same period in 2019. The decrease in Adjusted EBITDA was primarily due to a: (i) \$0.9 million increase in time charter voyage expenses; (ii) \$7.6 million increase in vessel operating expenses, mainly due to the increased fleet; (iii) \$0.8 million increase in general and administrative expenses, mainly due to the increased fleet; (iv) \$0.3 million increase in other expenses; and (v) \$1.7 million decrease in equity in net earnings of affiliated companies. The above decrease was partially mitigated by a: (i) \$1.0 million increase in time charter and voyage revenues; and (ii) \$0.1 million increase in other income.

EBITDA for the nine month period ended September 30, 2020 was negatively affected by the accounting effect of a: (i) \$6.9 million loss related to the other-than-temporary impairment recognized in the Navios Partners' receivable from Navios Europe II; (ii) \$6.8 million impairment loss related to three containerships; and (iii) \$1.8 million impairment loss related to the sale of the Esperanza N. EBITDA for the nine month period ended September 30, 2019 was negatively affected by the accounting effect of a: (i) \$7.3 million impairment loss related to the sale of the Navios Galaxy I; and (ii) \$3.6 million revision of the estimated guarantee claim receivable.

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Excluding these items, Adjusted EBITDA decreased by \$22.0 million to \$64.3 million for the nine month period ended September 30, 2020, as compared to \$86.3 million for the same period in 2019. The decrease in Adjusted EBITDA was primarily due to: (i) a \$0.6 million decrease in time charter and voyage revenues; (ii) an \$18.6 million increase in vessel operating expenses, mainly due to the increased fleet; (iii) a \$1.4 million increase in general and administrative expenses, mainly due to the increased fleet; (iv) a \$2.2 million increase in other expenses; and (v) a \$1.0 million decrease in equity in net earnings of affiliated companies. The above decrease was partially mitigated by a: (i) \$0.1 million decrease in time charter and voyage expenses, and (ii) \$1.6 million increase in other income.

(2) Operating Surplus

Operating Surplus represents net income adjusted for depreciation and amortization expense, non-cash interest expense, non-cash interest income, equity compensation expense, estimated maintenance and replacement capital expenditures and one-off items. Maintenance and replacement capital expenditures are those capital expenditures required to maintain over the long term the operating capacity of, or the revenue generated by, Navios Partners' capital assets.

Operating Surplus is a quantitative measure used in the publicly-traded partnership investment community to assist in evaluating a partnership's ability to make quarterly cash distributions. Operating Surplus is not required by accounting principles generally accepted in the United States and should not be considered a substitute for net income, cash flow from operating activities and other operations or cash flow statement data prepared in accordance with accounting principles generally accepted in the United States or as a measure of profitability or liquidity.

(3) Available Cash

Available Cash generally means, for each fiscal quarter, all cash on hand at the end of the quarter:

- less the amount of cash reserves established by the Board of Directors to:
- provide for the proper conduct of Navios Partners' business (including reserve for maintenance and replacement capital expenditures);
- comply with applicable law, any of Navios Partners' debt instruments, or other agreements; or
- provide funds for distributions to the unitholders and to the general partner for any one or more of the next four quarters;
- plus all cash on hand on the date of determination of available cash for the quarter resulting from working capital borrowings made after the end of the quarter. Working capital borrowings are generally borrowings that are made under any revolving credit or similar agreement used solely for working capital purposes or to pay distributions to partners.

Available Cash is a quantitative measure used in the publicly-traded partnership investment community to assist in evaluating a partnership's ability to make quarterly cash distributions. Available Cash is not required by U.S. GAAP and should not be considered a substitute for net income, cash flow from operating activities and other operations or cash flow statement data prepared in accordance with accounting principles generally accepted in the United States or as a measure of profitability or liquidity.

Borrowings

Navios Partners' long-term borrowings are presented under the captions "Long-term financial liabilities, net", "Long-term debt, net", "Current portion of financial liabilities, net" and "Current portion of long-term debt, net". As of September 30, 2020 and December 31, 2019, total borrowings, net of deferred finance costs amounted to \$505.7 million and \$489.0 million, respectively. The current portion of long-term borrowings, net amounted to \$204.6 million at September 30, 2020 and \$59.8 million at December 31, 2019.

Capital Expenditures

Navios Partners finances its capital expenditures with cash flow from operations, equity raisings, long-term bank borrowings and other debt raisings. Capital expenditures for each of the nine month periods ended September 30, 2020 and 2019 amounted to \$81.9 million and \$12.4 million, respectively. The reserves for estimated maintenance and replacement capital expenditures for the three and nine month periods ended September 30, 2020 were \$9.5 million and \$26.7 million, respectively. The reserves for estimated maintenance and replacement capital expenditures for the three and nine month periods ended September 30, 2019 were \$7.2 million and \$21.9 million, respectively.

Maintenance for our vessels and expenses related to drydocking expenses are reimbursed at cost by Navios Partners to our Manager under the Management Agreement (as defined herein). In each of October 2013, August 2014, February 2015, February 2016 and November 2017, Navios Partners amended its existing management agreement (the "Management Agreement") with the Manager to fix the fees for ship management services of its owned fleet, excluding drydocking expenses, which are reimbursed at cost by Navios Partners at: (a) \$4,225 daily rate per Ultra-Handymax vessel; (b) \$4,325 daily rate per Panamax vessel; (c) \$5,250 daily rate per Capesize vessel; (d) \$6,700 daily rate per Container vessel of TEU 6,800; (e) \$7,400 daily rate per Container vessel of more than TEU 8,000; and (f) \$8,750 daily rate per very large Containers vessel of more than TEU 13,000 through December 31, 2019.

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In August 2019, Navios Partners extended the duration of its existing management agreement with the Manager until January 1, 2025. Management fees are fixed for two years commencing from January 1, 2020 at: (a) \$4,350 daily per Ultra-Handymax Vessel; (b) \$4,450 daily per Panamax Vessel; (c) \$5,410 daily per Capesize Vessel; and (d) \$6,900 daily per 6,800 TEU Containership. The agreement also provides for a technical and commercial management fee of \$50 per day per vessel and an annual increase of 3% after January 1, 2022 unless agreed otherwise.

Following the liquidation of Navios Europe I, Navios Partners acquired three Sub-Panamax and two Panamax Containerships. As per the Management Agreement, as amended in December 2019, management fees are fixed for two years commencing from January 1, 2020 at \$6,100 daily per Sub-Panamax/Panamax Containership. The agreement also provides for a technical and commercial management fee of \$50 per day per vessel and an annual increase of 3% after January 1, 2022 for the remaining period unless agreed otherwise. Drydocking expenses are reimbursed at cost for all vessels.

Maintenance and Replacement Capital Expenditures Reserve

We estimate that our annual replacement reserve for the year ending December 31, 2020 will be approximately \$36.5 million, for replacing our vessels at the end of their useful lives.

The amount for estimated replacement capital expenditures attributable to future vessel replacement was based on the following assumptions: (i) current market price to purchase a five year old vessel of similar size and specifications; (ii) a 25-year useful life for drybulk vessels and a 30-year useful life for containerships; and (iii) a relative net investment rate.

The amount for estimated maintenance capital expenditures attributable to future vessel drydocking and special survey was based on certain assumptions including the remaining useful life of the owned vessels of our fleet, market costs of drydocking and special survey and a relative net investment rate.

Our Board of Directors, with the approval of the Conflicts Committee, may determine that one or more of our assumptions should be revised, which could cause our Board of Directors to increase or decrease the amount of estimated maintenance and replacement capital expenditures. The actual cost of replacing the vessels in our fleet will depend on a number of factors, including prevailing market conditions, charter hire rates and the availability and cost of financing at the time of replacement. We may elect to finance some or all of our maintenance and replacement capital expenditures through the issuance of additional common units, which could be dilutive to existing unitholders.

Off-Balance Sheet Arrangements

We have no off-balance sheet arrangements that have or are reasonably likely to have, a current or future material effect on our financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources.

Contractual Obligations and Contingencies

The following table summarizes our long-term contractual obligations as of September 30, 2020.

	Payments due by period (Unaudited)				Total
	Less than 1 year	1-3 years	3-5 years	More than 5 years	
	(In thousands of U.S. dollars)				
Loan obligations ⁽¹⁾	\$200,201	\$123,286	\$121,596	—	\$445,083
Financial liabilities ⁽²⁾	\$ 6,473	\$ 13,390	\$ 19,678	\$ 25,931	\$ 65,472
Operating Lease Obligations (Time Charters) for bareboat charter-in vessels ⁽³⁾ (4)	\$ 3,391	\$ 13,229	\$ 12,932	\$ 31,794	\$ 61,346
Total contractual obligations	<u>\$210,065</u>	<u>\$149,905</u>	<u>\$154,206</u>	<u>\$ 57,725</u>	<u>\$571,901</u>

(1) Represents principal payments and repayments on amounts drawn on our credit facilities that bear interest at applicable fixed interest rates ranging from 2.6% to 7.0% plus LIBOR per annum. The amounts in the table exclude expected interest payments of \$14.2 million (less than 1 year), \$13.6 million (1-3 years) and \$3.1 million (3-5 years). Expected interest payments are based on outstanding principal amounts, applicable currently effective interest rates and margins as of September 30, 2020, timing of scheduled payments and the term of the debt obligations.

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- (2) Represents principal payments and repayments on amounts drawn under the financial liabilities and exclude interest payments of \$4.3 million (less than 1 year), \$7.2 million (1-3 years), \$4.4 million (3-5 years) and \$5.4 million (more than 5 years).
- (3) In November 2017, Navios Partners agreed to charter-in, under a ten-year bareboat contract, from an unrelated third party, the Navios Libra, a newbuilding Panamax vessel of 82,011 dwt, delivered on July 24, 2019. Navios Partners had agreed to pay in total \$5.54 million, representing a deposit for the option to acquire the vessel after the end of the fourth year, of which the first half of \$2.77 million was paid during the year ended December 31, 2017 and the second half of \$2.77 million was paid during the year ended December 31, 2018, both presented under the caption “Other long-term assets” in the condensed Consolidated Balance Sheets as of September 30, 2020.
- (4) On October 18, 2019, Navios Partners agreed to charter-in, under a ten-year bareboat contract, from an unrelated third party, two newbuilding Panamax vessels of approximately 81,000 dwt each, expected to be delivered by the first half of 2021. Navios Partners had agreed to pay in total \$12.3 million, representing a deposit for the option to acquire the vessels after the end of the fourth year, of which the \$1.4 million was paid during the year ended December 31, 2019, the \$4.3 million was paid in the first quarter of 2020 and the \$5.7 million was paid in the third quarter of 2020, all presented under the caption “Other long-term assets” in the condensed Consolidated Balance Sheets as of September 30, 2020. The remaining amount of \$0.9 million will be paid upon the delivery of the vessels. The table above excludes the deposits payable of \$0.9 million in 2021.

Navios Partners leases office space in Monaco pursuant to a five year lease agreement dated July 1, 2018 that expires in June 2023, for a monthly rent of approximately \$0.01 million.

Limitations on Cash Distributions and Our Ability to Change Our Cash Distribution Policy

There is no guarantee that unitholders will receive quarterly distributions from us and beginning with the quarter ending December 31, 2015, our Board of Directors elected to suspend distributions on our common units in order to preserve cash and improve our liquidity. In March 2018, the Company’s Board of Directors announced a new distribution policy under which it paid quarterly cash distributions in the amount of \$0.30 per unit, or \$1.20 annually. In July 2020, the Company amended its distribution policy under which it intends to pay quarterly cash distributions in the amount of \$0.05 per unit, or \$0.20 annually. In October 2020, the Board of Directors of Navios Partners authorized its quarterly cash distribution for the three month period ended September 30, 2020 of \$0.05 per unit. The distribution was paid on November 13, 2020 to all unitholders of common units and general partner units of record as of November 9, 2020.

Our distribution policy is subject to certain restrictions and may be changed at any time, including:

- Our unitholders have no contractual or other legal right to receive distributions other than the obligation under our partnership agreement to distribute available cash on a quarterly basis, which is subject to the broad discretion of our Board of Directors to establish reserves and other limitations.
- While our partnership agreement requires us to distribute all of our available cash, our partnership agreement, including provisions requiring us to make cash distributions contained therein, may be amended. Although during the subordination period, with certain exceptions, our partnership agreement could not have been amended without the approval of non-affiliated common unitholders, however, our partnership agreement can be amended with the approval of a majority of the outstanding common units now that the subordination period has ended. Upon the closing of the initial public offering of our common units (the “IPO”), Navios Holdings did not own any of our outstanding common units and owned 100.0% of our outstanding subordinated units.
- Even if our cash distribution policy is not modified or revoked, the amount of distributions we pay under our cash distribution policy and the decision to make any distribution is determined by our Board of Directors, taking into consideration the terms of our partnership agreement.
- Under Section 51 of the Marshall Islands Limited Partnership Act, we may not make a distribution to our unitholders if the distribution would cause our liabilities to exceed the fair value of our assets.
- We may lack sufficient cash to pay distributions to our unitholders due to decreases in net revenues or increases in operating expenses, principal and interest payments on outstanding debt, tax expenses, working capital requirements, maintenance and replacement capital expenditures or anticipated cash needs.
- Our distribution policy is affected by restrictions on distributions under our credit facilities. Specifically, our credit facilities contain material financial tests that must be satisfied and we will not pay any distributions that will cause us to violate our credit facilities or other debt instruments. Should we be unable to satisfy these restrictions included in our credit facilities or if we are otherwise in default under our credit facilities, our ability to make cash distributions to unitholders, notwithstanding our cash distribution policy, would be materially adversely affected.

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- If we make distributions out of capital surplus, as opposed to Operating Surplus, such distributions will constitute a return of capital and will result in a reduction in the minimum quarterly distribution and the target distribution levels.

Our ability to make distributions to our unitholders depends on the performance of our subsidiaries and their ability to distribute funds to us. The ability of our subsidiaries to make distributions to us may be restricted by, among other things, the provisions of existing and future indebtedness, applicable partnership and limited liability company laws and other laws and regulations.

Quarterly Distribution

There is no guarantee that we will pay the quarterly distribution on the common units in any quarter. The amount of distributions paid under our policy and the decision to make any distribution is determined by our board of directors, taking into consideration the terms of our partnership agreement. We are prohibited from making any distributions to unitholders if it would cause an event of default, or an event of default exists, under our existing credit facilities.

Quarterly distributions were paid by the Company through September 2015. For the quarter ended December 31, 2015, the Company's Board of Directors determined to suspend payment of the Company's quarterly distributions in order to preserve cash and improve our liquidity. In March 2018, the Company's Board of Directors announced a new distribution policy under which it paid quarterly cash distributions in the amount of \$0.30 per unit, or \$1.20 annually. In July 2020, the Company amended its distribution policy under which it intends to pay quarterly cash distributions in the amount of \$0.05 per unit, or \$0.20 annually.

In October 2020, the Board of Directors of Navios Partners authorized its quarterly cash distribution for the three month period ended September 30, 2020 of \$0.05 per unit. The distribution was paid on November 13, 2020 to all unitholders of common units and general partner units of record as of November 9, 2020. The aggregate amount of the declared distribution was \$0.6 million.

Incentive Distribution Rights

The following description of our incentive distribution rights reflects such rights and the indicated levels are achieved, of which there can be no assurance. Incentive distribution rights represent the right to receive an increasing percentage of quarterly distributions of available cash from Operating Surplus after the minimum quarterly distribution and the target distribution levels have been achieved. Navios GP L.L.C. currently holds the incentive distribution rights, but may transfer these rights, provided the transferee agrees to be bound by the terms of the partnership agreement.

The following table illustrates the percentage allocations of the additional available cash from Operating Surplus among the unitholders, our general partner and the holder of our incentive distribution rights up to the various target distribution levels. The amounts set forth under "Marginal Percentage Interest in Distributions" are the percentage interests of the unitholders in any available cash from Operating Surplus we distribute up to and including the corresponding amount in the column "Total Quarterly Distribution Target Amount", until available cash from Operating Surplus we distribute reaches the next target distribution level, if any. The percentage interests shown for the unitholders for the minimum quarterly distribution are also applicable to quarterly distribution amounts that are less than the minimum quarterly distribution. The percentage interests shown for our general partner assume that our general partner maintains its 2.0% general partner interest.

	Total Quarterly Distribution Target Amount	Marginal Percentage Interest in Distributions		
		Common Unitholders	Incentive Distribution Right Holder	General Partner
Minimum Quarterly Distribution	up to \$5.25	98%	—	2%
First Target Distribution	up to \$6.0375	98%	—	2%
Second Target Distribution	above \$ 6.0375 up to \$6.5625	85%	13%	2%
Third Target Distribution	above \$6.5625 up to \$7.875	75%	23%	2%
Thereafter	above \$7.875	50%	48%	2%

In August 2019, Navios Holdings sold the general partnership interests in the Company to N Shipmanagement Acquisition Corp., and related entities, an entity affiliated with the Company's Chairman and Chief Executive Officer. The incentive distribution rights remained with Navios GP L.L.C.

Related Party Transactions

Vessel operating expenses (management fees): Pursuant to the amended Management Agreement in each of October 2013, August 2014, February 2015, February 2016 and November 2017, the Manager provided commercial and technical management services to Navios Partners' vessels for a daily fee (excluding drydocking expenses, which were reimbursed at cost by Navios Partners) of: (a) \$4,225 daily rate per Ultra-Handymax vessel; (b) \$4,325 daily rate per Panamax vessel; (c) \$5,250 daily rate per Capesize vessel; (d) \$6,700 daily rate per Containership of TEU 6,800; (e) \$7,400 daily rate per Containership of more than TEU 8,000; and (f) \$8,750 daily rate per very large Containership of more than TEU 13,000 through December 2019. These fixed daily fees cover our vessels' operating expenses, other than certain extraordinary fees and costs.

In August 2019, Navios Partners extended the duration of its Management Agreement with the Manager until January 1, 2025. In addition, management fees are fixed for two years commencing from January 1, 2020 at: (a) \$4,450 daily per Panamax Vessel; (b) \$4,350 daily per Ultra-Handymax Vessel; (c) \$5,410 daily per Capesize Vessel; and (d) \$6,900 daily per 6,800 TEU Containership. The agreement also provides for a technical and commercial management fee of \$50 per day per vessel and an annual increase of 3% after January 1, 2022 unless agreed otherwise.

Following the liquidation of Navios Europe I, Navios Partners acquired three Sub-Panamax and two Panamax Containerships. As per the Management Agreement, as amended in December 2019, management fees are fixed for two years commencing from January 1, 2020 at \$6,100 daily per Sub-Panamax/Panamax Containership. The agreement also provides for a technical and commercial management fee of \$50 per day per vessel and an annual increase of 3% after January 1, 2022 for the remaining period unless agreed otherwise.

Drydocking expenses are reimbursed at cost for all vessels.

For the three and nine month periods ended September 30, 2020 certain extraordinary fees and costs related to vessels' regulatory requirements including ballast water treatment system installation and exhaust gas cleaning system installation, under the Company's management agreement amounted to \$0.9 million and \$2.4 million, respectively, and are presented under the caption "Acquisition of/additions to vessels, net of cash acquired" in the condensed Consolidated Statements of Cash Flows. For the three and nine month periods ended September 30, 2019 certain extraordinary fees and costs related to vessels' regulatory requirements including ballast water treatment system installation and exhaust gas cleaning system installation, under the Company's management agreement amounted to \$5.5 million and \$11.2 million, respectively.

Total vessel operating expenses for each of the three and nine month periods ended September 30, 2020 amounted to \$24.3 million and \$68.4 million, respectively. Total vessel operating expenses for each of the three and nine month periods ended September 30, 2019 amounted to \$16.7 million and \$49.8 million, respectively.

General and administrative expenses: Pursuant to the Administrative Services Agreement, the Manager also provides administrative services to Navios Partners, which include bookkeeping, audit and accounting services, legal and insurance services, administrative and clerical services, banking and financial services, advisory services, client and investor relations and other. The Manager is reimbursed for reasonable costs and expenses incurred in connection with the provision of these services. Navios Partners extended the duration of its existing Administrative Services Agreement with the Manager, until December 31, 2022. In August 2019, Navios Partners extended the duration of its existing administrative services agreement with the Manager until January 1, 2025, which provide for allocable general and administrative costs.

Total general and administrative expenses charged by the Manager for each of the three and nine month periods ended September 30, 2020 amounted to \$3.6 million and \$10.0 million, respectively. Total general and administrative expenses charged by the Manager for each of the three and nine month periods ended September 30, 2019 amounted to \$2.6 million and \$7.7 million, respectively.

Balance due from related parties (excluding Navios Europe II): Balance due from related parties as of September 30, 2020 and December 31, 2019 amounted to \$10.0 million and \$25.6 million, respectively, of which for the year ended December 31, 2019, the current receivable was \$11.8 million and the long-term receivable was \$13.8 million. The balance as of September 30, 2020, consisted of the guarantee claim receivable from the Navios Holdings Guarantee (as defined herein) of \$10.0 million.

Balance due to related parties: Balance due to related parties, short-term as of September 30, 2020 and December 31, 2019 amounted to \$40.3 million and \$0, respectively, and mainly consisted of payables to the Manager.

Balance due from Navios Europe II: Navios Holdings, Navios Maritime Acquisition Corporation ("Navios Acquisition") and Navios Partners have made available to Navios Europe II revolving loans of up to \$43.5 million to fund working capital requirements (collectively, the "Navios Revolving Loans II"). In March 2017, the availability under the Navios Revolving Loans II was increased by \$14.0 million (see Note 14—Investment in Affiliates).

On April 21, 2020, Navios Europe II agreed with the lender to fully release the liabilities under the junior participating loan facility for \$5.0 million. Navios Europe II owned seven container vessels and seven dry bulk vessels. Navios Partners had a net receivable of approximately \$17.3 million from Navios Europe II.

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As of March 31, 2020, the decline in the fair value of the investment was considered as other-than-temporary and, therefore, an aggregate loss of \$6.9 million was recognized and included in the accompanying condensed Consolidated Statements of Operations for the nine month period ended September 30, 2020, as “Impairment of receivable in affiliated company”. The fair value of the Company’s investment was determined based on the liquidation value of Navios Europe II, including the individual fair values assigned to the assets and liabilities of Navios Europe II.

On May 14, 2020, an agreement was reached to liquidate Navios Europe II before its original expiring date. The transaction was completed on June 29, 2020.

As a result of the Europe II Liquidation, Navios Partners acquired 100% of the stock of the five vessels owning Companies owning the dry bulk vessels of Navios Europe II with a fair value of \$56.1 million and working capital balances of \$(2.7) million. The acquisition was funded through a new credit facility (Note 6—Borrowings) and cash on hand for total of \$36.1 million and the satisfaction of its receivable balances in the amount of approximately \$17.3 million representing the Revolving Loan, Term Loan and accrued interest thereof directly owned to Navios Partners, previously presented under the captions “Amounts due from related parties” and “Loans receivable from affiliates”.

Following the Liquidation of Navios Europe II, there was no balance due from Navios Europe II as of September 30, 2020. As of December 31, 2019, Navios Partners’ portion of the outstanding amount relating to the portion of the investment in Navios Europe II (5.0% of the \$14.0 million) was \$0.7 million, under the caption “Investment in affiliates” and the outstanding amount relating to the Navios Revolving Loans II capital was \$15.4 million, under the caption “Loans receivable from affiliates”. The accrued interest income earned under the Navios Revolving Loans II was \$7.3 million under the caption “Amounts due from related parties” and the accrued interest income earned under the Navios Term Loans II was \$0.8 million under the caption “Loans receivable from affiliates”.

Note receivable from affiliates: On March 17, 2017, Navios Holdings transferred to Navios Partners its rights to the fixed 12.7% interest on the Navios Europe I Navios Term Loans I and Navios Revolving Loans I (including the respective accrued receivable interest) in the amount of \$33.5 million, which included a cash consideration of \$4.1 million and 871,795 newly issued common units of Navios Partners, on a split adjusted basis. At the date of this transaction, the Company recognized a receivable at the fair value of its newly issued common units totaling \$29.4 million based on the closing price of \$33.75 per unit as of March 16, 2017 given as consideration. The receivable relating to the consideration settled with the issuance of 871,795 Navios Partners’ common units in the amount of \$29.4 million has been classified contra equity. The receivable from Navios Holdings was payable on maturity in December 2023. Interest would accrue through maturity and would be recognized within “Interest income” for the receivable relating to the cash consideration of \$4.1 million. On October 23, 2019, Navios Partners’ Conflicts Committee agreed to cancel an amortizing penalty from Navios Holdings of approximately \$3.2 million as of December 2019, due to early liquidation of the structure. Following the liquidation of Navios Europe I, the long-term note receivable from Navios Holdings amounted to \$0.

Others: Navios Partners has entered into an omnibus agreement with Navios Holdings (the “Partners Omnibus Agreement”) in connection with the closing of Navios Partners’ IPO governing, among other things, when Navios Holdings and Navios Partners may compete against each other as well as rights of first offer on certain drybulk carriers. Pursuant to the Partners Omnibus Agreement, Navios Partners generally agreed not to acquire or own Panamax or Capesize drybulk carriers under time charters of three or more years without the consent of an independent committee of Navios Partners. In addition, Navios Holdings has agreed to offer to Navios Partners the opportunity to purchase vessels from Navios Holdings when such vessels are fixed under time charters of three or more years.

Navios Partners entered into an omnibus agreement with Navios Acquisition and Navios Holdings (the “Acquisition Omnibus Agreement”) in connection with the closing of Navios Acquisition’s initial vessel acquisition, pursuant to which, among other things, Navios Holdings and Navios Partners agreed not to acquire, charter-in or own liquid shipment vessels, except for containerships and vessels that are primarily employed in operations in South America, without the consent of an independent committee of Navios Acquisition. In addition, Navios Acquisition, under the Acquisition Omnibus Agreement, agreed to cause its subsidiaries not to acquire, own, operate or charter drybulk carriers subject to specific exceptions. Under the Acquisition Omnibus Agreement, Navios Acquisition and its subsidiaries granted to Navios Holdings and Navios Partners, a right of first offer on any proposed sale, transfer or other disposition of any of its drybulk carriers and related charters owned or acquired by Navios Acquisition. Likewise, Navios Holdings and Navios Partners agreed to grant a similar right of first offer to Navios Acquisition for any liquid shipment vessels it might own. These rights of first offer will not apply to a (i) sale, transfer or other disposition of vessels between any affiliated subsidiaries, or pursuant to the terms of any charter or other agreement with a counterparty, or (ii) merger with or into, or sale of substantially all of the assets to, an unaffiliated third party.

In connection with the Navios Maritime Midstream Partners L.P. (“Navios Midstream”) initial public offering effective November 18, 2014, Navios Partners entered into an omnibus agreement with Navios Midstream, Navios Acquisition and Navios Holdings pursuant to which Navios Acquisition, Navios Holdings and Navios Partners have agreed not to acquire or own any VLCCs, crude oil tankers, refined petroleum product tankers, LPG tankers or chemical tankers under time charters of five or more years and also providing rights of first offer on certain tanker vessels.

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In connection with the Navios Containers private placement and listing on the Norwegian over-the-counter market effective June 8, 2017, Navios Partners entered into an omnibus agreement with Navios Containers, Navios Holdings, Navios Acquisition and Navios Midstream (the “Navios Containers Omnibus Agreement”), pursuant to which Navios Partners, Navios Holdings, Navios Acquisition and Navios Midstream have granted to Navios Containers a right of first refusal over any containerships to be sold or acquired in the future. The omnibus agreement contains significant exceptions that will allow Navios Partners, Navios Holdings, Navios Acquisition and Navios Midstream to compete with Navios Containers under specified circumstances.

Navios Holdings Guarantee: On November 15, 2012 (as amended and supplemented in March 2014, December 2017 and July 2019), Navios Holdings and Navios Partners entered into an agreement (the “Navios Holdings Guarantee”) by which Navios Holdings would provide supplemental credit default insurance with a maximum cash payment of \$20.0 million. As of September 30, 2020, the outstanding claim receivable amounted to \$10.0 million. The final settlement of the amount from Navios Holdings will take place at specific dates, in accordance with a signed letter of agreement between the parties. The guarantee claim receivable is presented under the caption “Amounts due from related parties-short term” in the condensed Consolidated Balance Sheets as of September 30, 2020.

General partner: In August 2019, Navios Holdings announced that it sold certain assets, including its ship management division and the general partnership interest in Navios Partners to N Shipmanagement Acquisition Corp. and related entities, affiliated with Navios Holdings’ Chairman and Chief Executive Officer, Angeliki Frangou.

Acquisition of vessels: On September 30, 2020, Navios Partners acquired the Navios Gem, a 2014-built Capesize vessel of 181,336 dwt and the Navios Victory, a 2014-built Panamax vessel of 77,095 dwt, from its affiliate, Navios Holdings, for a purchase price of \$51.0 million, including working capital balances of \$(4.4) million. The acquisition was funded through a new credit facility of \$33.0 million (see Note 6—Borrowings) and the balance of \$13.6 million as a seller’s credit by Navios Holdings presented under the caption “Payable to affiliated companies” in the condensed Consolidated Balance Sheets as of September 30, 2020. On October 2, 2020, Navios Partners paid to Navios Holdings the balance of \$13.6 million.

On November 26, 2019, Navios Partners entered into a share purchase agreement for the acquisition of five containerships, following the liquidation of Navios Europe I. The vessels were acquired on December 13, 2019 (see Note 4—Vessels, net).

On November 25, 2019, Navios Partners entered into a share purchase agreement for the acquisition of three Panamax and one Ultra-Handymax drybulk vessels from an entity affiliated with its Chairman and CEO for \$37.0 million (plus working capital adjustment) in a transaction approved by the Conflicts Committee of the Board of Directors of Navios Partners. The vessels were acquired on December 13, 2019 (see Note 4—Vessels, net).

As of November 17, 2020, Navios Holdings held an 18.2% common unit interest in Navios Partners, represented by 2,070,216 common units. The General Partner held a general partner interest of 2.1% represented by 237,822 general partner units.

Quantitative and Qualitative Disclosures about Market Risks

Foreign Exchange Risk

Our functional and reporting currency is the U.S. dollar. We engage in worldwide commerce with a variety of entities. Although our operations may expose us to certain levels of foreign currency risk, our transactions are predominantly U.S. dollar denominated. Transactions in currencies other than U.S. dollars are translated at the exchange rate in effect at the date of each transaction. Differences in exchange rates during the period between the date a transaction denominated in a foreign currency is consummated and the date on which it is either settled or translated, are recognized.

Interest Rate Risk

Borrowings under our credit facilities bear interest at rate based on a premium over U.S. \$ LIBOR. Therefore, we are exposed to the risk that our interest expense may increase if interest rates rise. For the nine month period ended September 30, 2020 and 2019, we paid interest on our outstanding debt at a weighted average interest rate of 4.69% and 7.11%, respectively. A 1% increase in LIBOR would have increased our interest expense for each of the nine month periods ended September 30, 2020 and 2019 by \$3.1 million and \$3.8 million, respectively.

Concentration of Credit Risk

Financial instruments, which potentially subject us to significant concentrations of credit risk, consist principally of trade accounts receivable. We closely monitor our exposure to customers for credit risk. We have policies in place to ensure that we trade with customers with an appropriate credit history.

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For the nine month period ended September 30, 2020, one customer, HMM represented approximately 24.6% of total revenues. For the nine month period ended September 30, 2019, HMM, Swissmarine and Cargill represented approximately 26.9%, 12.3% and 10.6%, respectively, of total revenues. No other customers accounted for 10% or more of total revenues for any of the periods presented.

On November 15, 2012 (as amended and supplemented in March 2014, December 2017 and July 2019), Navios Holdings and Navios Partners entered into the Navios Holdings Guarantee by which Navios Holdings would provide supplemental credit default insurance with a maximum cash payment of \$20.0 million. As of September 30, 2020, the outstanding claim receivable amounted to \$10.0 million. The final settlement of the amount from Navios Holdings will take place at specific dates, in accordance with a signed letter of agreement between the parties. The guarantee claim receivable is presented under the caption "Amounts due from related parties-short term" in the condensed Consolidated Balance Sheets as of September 30, 2020.

If we lose a charter, we may be unable to re-deploy the related vessel on terms as favorable to us due to the long-term nature of most charters and the cyclical nature of the industry or we may be forced to charter the vessel on the spot market at then market rates which may be less favorable than the charter that has been terminated. If we are unable to re-deploy a vessel for which the charter has been terminated, we will not receive any revenues from that vessel, but we may be required to pay expenses necessary to maintain the vessel in proper operating condition. If we lose a vessel, any replacement or newbuilding would not generate revenues during its construction acquisition period, and we may be unable to charter any replacement vessel on terms as favorable to us as those of the terminated charter.

Even if we successfully charter our vessels in the future, our charterers may go bankrupt or fail to perform their obligations under the charter agreements, they may delay payments or suspend payments altogether, they may terminate the charter agreements prior to the agreed-upon expiration date or they may attempt to renegotiate the terms of the charters. The permanent loss of a customer, time charter or vessel, or a decline in payments under our charters, could have a material adverse effect on our business, results of operations and financial condition and our ability to make cash distributions in the event we are unable to replace such customer, time charter or vessel. For further details, please read "Risk Factors" in our 2019 Annual Report on Form 20-F.

Inflation

Inflation has had a minimal impact on vessel operating expenses, drydocking expenses and general and administrative expenses. Our management does not consider inflation to be a significant risk to direct expenses in the current and foreseeable economic environment.

Recent Accounting Pronouncements

The Company's recent accounting pronouncements are included in the accompanying notes to the unaudited condensed consolidated financial statements included elsewhere in this report.

Critical Accounting Policies

Our financial statements have been prepared in accordance with U.S. GAAP. The preparation of these financial statements requires us to make estimates in the application of our accounting policies based on the best assumptions, judgments and opinions of management. Following is a discussion of the accounting policies that involve a higher degree of judgment and the methods of their application that affect the reported amount of assets and liabilities, revenues and expenses and related disclosure of contingent assets and liabilities at the date of our financial statements. Actual results may differ from these estimates under different assumptions or conditions.

Critical accounting policies are those that reflect significant judgments or uncertainties, and potentially result in materially different results under different assumptions and conditions. Other than as described below, all significant accounting policies are as described in Note 2 to the Notes to the consolidated financial statements included in the Company's Annual Report on Form 20-F for the year ended December 31, 2019 filed with the SEC on April 1, 2020.

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Exhibit List

<u>Exhibit No.</u>	<u>Exhibit</u>
4.1	Facility Agreement, dated June 25, 2020, by and among Cronus Shipping Corporation, Dionysus Shipping Corporation, Oceanus Shipping Corporation, and Prometheus Shipping Corporation, as borrowers, and Hellenic Bank Public Company Limited, as lender, arranger, agent, account bank and security trustee.
4.2	Facility Agreement, dated June 26, 2020, by and among Navios Maritime Partners L.P., as borrower, ABN Amro Bank N.V., as agent and security trustee, and the banks and financial institutions listed therein.
4.3	Facility Agreement, dated September 28, 2020, by and among Emery Shipping Corporation and Rondine Management Corp., as borrowers, and Crédit Agricole Corporate and Investment Bank, as lender, arranger, agent, account bank and security trustee.
4.4	Supplemental Agreement, dated July 2, 2020, to Loan Agreement, dated December 12, 2019, by and among Navios Maritime Partners L.P., as borrower, ABN Amro Bank N.V., as agent and security trustee, and the banks and financial institutions listed therein.
4.5	Second Supplemental Agreement, dated September 30, 2020, to Loan Agreement, dated December 12, 2019, by and among Navios Maritime Partners L.P., as borrower, ABN Amro Bank N.V., as agent and security trustee, and the banks and financial institutions listed therein.

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NAVIOS MARITIME PARTNERS L.P.
CONDENSED CONSOLIDATED BALANCE SHEETS
(Expressed in thousands of U.S. Dollars except unit data)

	Notes	September 30, 2020 (unaudited)	December 31, 2019 (unaudited)
ASSETS			
Current assets			
Cash and cash equivalents	3	\$ 22,637	\$ 23,354
Restricted cash	3	7,978	7,048
Accounts receivable, net		11,595	11,291
Amounts due from related parties	12	10,000	19,108
Prepaid expenses and other current assets		13,746	10,463
Notes receivable	13	1,181	4,726
Total current assets		\$ 67,137	\$ 75,990
Vessels, net	4	1,122,535	1,062,258
Other long-term assets	11	18,590	8,165
Deferred dry dock and special survey costs, net		40,116	26,469
Investment in affiliates	14	25,611	25,725
Loans receivable from affiliates	14	—	16,192
Intangible assets	5	2,292	3,166
Amounts due from related parties	12	—	13,757
Notes receivable, net of current portion	13	7,896	7,554
Operating lease assets	17	13,538	14,241
Total non-current assets		1,230,578	1,177,527
Total assets		\$ 1,297,715	\$ 1,253,517
LIABILITIES AND PARTNERS' CAPITAL			
Current liabilities			
Accounts payable		\$ 6,533	\$ 8,473
Accrued expenses		6,728	5,987
Deferred revenue	13	4,074	4,497
Operating lease liabilities, current portion	17	1,141	1,047
Current portion of financial liabilities, net	6	6,153	5,814
Current portion of long-term debt, net	6	198,484	53,966
Amounts due to related parties	12	40,338	—
Payable to affiliated companies	12	13,622	—
Total current liabilities		\$ 277,073	\$ 79,784
Operating lease liabilities, net	17	12,288	13,154
Long-term financial liabilities, net	6	58,110	82,794
Long-term debt, net	6	242,925	346,454
Deferred revenue	13	2,469	3,312
Total non-current liabilities		315,792	445,714
Total liabilities		\$ 592,865	\$ 525,498
Commitments and contingencies	11	—	—
Partners' capital:			
Common Unitholders (11,267,997 and 10,987,679 units issued and outstanding at September 30, 2020 and December 31, 2019, respectively)	8	701,031	723,720
General Partner (236,070 and 230,524 units issued and outstanding at September 30, 2020 and December 31, 2019, respectively)	8	3,819	4,299
Total partners' capital		704,850	728,019
Total liabilities and partners' capital		\$ 1,297,715	\$ 1,253,517

See unaudited condensed notes to the condensed consolidated financial statements

NAVIOS MARITIME PARTNERS L.P.
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(Expressed in thousands of U.S. Dollars except unit and per unit data)

	Notes	Three Month Period Ended September 30, 2020 (unaudited)	Three Month Period Ended September 30, 2019 (unaudited)	Nine Month Period Ended September 30, 2020 (unaudited)	Nine Month Period Ended September 30, 2019 (unaudited)
Time charter and voyage revenues	9,13	\$ 64,499	\$ 63,548	\$ 157,538	\$ 158,111
Time charter and voyage expenses		(3,609)	(2,708)	(8,647)	(8,721)
Direct vessel expenses		(2,736)	(1,710)	(7,670)	(4,823)
Vessel operating expenses (management fees entirely through related parties transactions)		(24,289)	(16,695)	(68,424)	(49,801)
General and administrative expenses	12	(4,716)	(3,897)	(15,844)	(14,425)
Depreciation and amortization	4,5	(14,153)	(13,171)	(41,453)	(39,903)
Vessels impairment loss	4	(1,780)	—	(8,580)	(7,345)
Impairment of receivable in affiliated company	12	—	—	(6,900)	—
Interest expense and finance cost, net		(5,417)	(11,432)	(18,636)	(35,192)
Interest income		143	1,858	514	5,392
Other income		161	105	2,344	696
Other expense	16	(730)	(403)	(3,202)	(4,725)
Equity in net (loss)/ earnings of affiliated companies	14	(382)	1,364	586	1,549
Net income/ (loss)		\$ 6,991	\$ 16,859	\$ (18,374)	\$ 813

Earnings/ (loss) per unit (see note 15):

	Three Month Period Ended September 30, 2020 (unaudited)	Three Month Period Ended September 30, 2019 (unaudited)	Nine Month Period Ended September 30, 2020 (unaudited)	Nine Month Period Ended September 30, 2019 (unaudited)
Earnings/ (loss) per unit:				
Common units (basic and diluted)	\$ 0.63	\$ 1.54	\$ (1.65)	\$ 0.07

See unaudited condensed notes to the condensed consolidated financial statements

NAVIOS MARITIME PARTNERS L.P.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(Expressed in thousands of U.S. Dollars)

	<u>Notes</u>	<u>Nine Month Period Ended September 30, 2020 (unaudited)</u>	<u>Nine Month Period Ended September 30, 2019 (unaudited)</u>
OPERATING ACTIVITIES:			
Net (loss)/ income		\$ (18,374)	\$ 813
Adjustments to reconcile net (loss)/ income to net cash provided by operating activities:			
Depreciation and amortization	4,5	41,453	39,903
Vessels impairment loss	4	8,580	7,345
Impairment of receivable in affiliated company	12	6,900	—
Non cash accrued interest income and amortization of deferred revenue	13	(1,188)	(9,471)
Non cash accrued interest income from affiliates	12	—	(214)
Amortization of operating lease right-of-use asset	17	703	158
Amortization and write-off of deferred finance costs		1,570	7,258
Amortization of deferred dry dock and special survey costs		7,613	4,805
Equity in net earnings of affiliated companies, net of dividends received	14	(586)	(1,549)
Equity compensation expense	8	723	1,537
Changes in operating assets and liabilities:			
Net decrease in accounts receivable		374	6,935
Net increase in prepaid expenses and other current assets		(1,951)	(6,023)
(Decrease)/ increase in accounts payable		(2,300)	380
Net increase in accrued expenses		188	564
Net decrease in deferred revenue		(420)	(590)
Net decrease in amounts due from related parties	12	15,582	9,405
Net increase in amounts due to related parties	12	31,865	—
Payments for dry dock and special survey costs		(21,260)	(13,986)
Operating lease liabilities short and long-term	17	(772)	(175)
Net cash provided by operating activities		68,700	47,095
INVESTING ACTIVITIES:			
Net cash proceeds from sale of vessels		—	5,978
Deposit for option to acquire vessel	11	(10,425)	(1,090)
Acquisition of/ additions to vessels, net of cash acquired	4	(71,437)	(11,288)
Repayments of notes receivable	13	3,516	3,516
Loans receivable from affiliates	14	—	(4,000)
Net cash used in investing activities		(78,346)	(6,884)
FINANCING ACTIVITIES:			
Cash distributions paid	15	(7,293)	(10,186)
Net proceeds from issuance of general partner units	8	35	8
Net proceeds from issuance of common units	8	1,740	—
Proceeds from long-term debt	6	79,475	129,281
Repayment of long-term debt and financial liabilities	6	(63,286)	(186,723)
Deferred finance costs		(812)	(3,552)
Acquisition of treasury stock	8	—	(4,499)
Net cash provided by/ (used in) financing activities		9,859	(75,671)
Increase/ (decrease) in cash, cash equivalents and restricted cash		213	(35,460)
Cash, cash equivalents and restricted cash, beginning of period		30,402	61,455
Cash, cash equivalents and restricted cash, end of period		\$ 30,615	\$ 25,995

See unaudited condensed notes to the condensed consolidated financial statements

NAVIOS MARITIME PARTNERS L.P.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(Expressed in thousands of U.S. Dollars)

	Nine Month Period Ended September 30, 2020 (unaudited)	Nine Month Period Ended September 30, 2019 (unaudited)
Supplemental disclosures of cash flow information		
Cash interest paid	\$ 18,511	\$ 27,281
Non cash financing activities		
Equity compensation expense	\$ 723	\$ 1,537
Non cash investing activities		
Accrued interest on loan receivable from affiliates	—	\$ 281
Loans receivable from affiliates	\$ (9,992)	—
Payable to affiliated companies	\$ (13,622)	—
Acquisition of vessels	\$ 37,999	—

NAVIOS MARITIME PARTNERS L.P.
CONDENSED CONSOLIDATED STATEMENTS OF CHANGES IN PARTNERS' CAPITAL
(Expressed in thousands of U.S. Dollars except unit data)

	Limited Partners				Total Navios Partners' Capital
	General Partner		Common Unitholders		
	Units	Amount	Units	Amount	
Balance December 31, 2019	<u>230,524</u>	<u>\$ 4,299</u>	<u>10,987,679</u>	<u>\$ 723,720</u>	<u>\$ 728,019</u>
Cash distribution paid (\$0.30 per unit—see Note 15)	—	(69)	—	(3,296)	(3,365)
Stock based compensation (see Note 8)	—	—	—	245	245
Net loss	—	(213)	—	(10,511)	(10,724)
Balance March 31, 2020	<u>230,524</u>	<u>\$ 4,017</u>	<u>10,987,679</u>	<u>\$ 710,158</u>	<u>\$ 714,175</u>
Cash distribution paid (\$0.30 per unit—see Note 15)	—	(69)	—	(3,297)	(3,366)
Stock based compensation (see Note 8)	—	—	—	238	238
Net loss	—	(293)	—	(14,348)	(14,641)
Balance June 30, 2020	<u>230,524</u>	<u>\$ 3,655</u>	<u>10,987,679</u>	<u>\$ 692,751</u>	<u>\$ 696,406</u>
Cash distribution paid (\$0.05 per unit—see Note 15)	—	(11)	—	(551)	(562)
Proceeds from public offering and issuance of units, net of offering costs (Note 8)	5,546	35	280,318	1,740	1,775
Stock based compensation (see Note 8)	—	—	—	240	240
Net Income	—	140	—	6,851	6,991
Balance September 30, 2020	<u>236,070</u>	<u>\$ 3,819</u>	<u>11,267,997</u>	<u>\$ 701,031</u>	<u>\$ 704,850</u>

	Limited Partners				Note Receivable	Total Navios Partners' Capital
	General Partner		Common Unitholders			
	Units	Amount	Units	Amount		
Balance, December 31, 2018	<u>230,006</u>	<u>\$ 5,802</u>	<u>11,270,283</u>	<u>\$ 800,374</u>	<u>\$ (29,423)</u>	<u>\$ 776,753</u>
Cash distribution paid (\$0.30 per unit—see Note 15)	—	(69)	—	(3,389)	—	(3,458)
Acquisition of treasury stock (see Note 8)	—	—	(227,140)	(3,373)	—	(3,373)
Issuance of restricted common units (see Note 8)	518	8	25,396	33	—	41
Stock based compensation (see Note 8)	—	—	—	461	—	461
Net loss	—	(188)	—	(9,335)	—	(9,523)
Balance, March 31, 2019	<u>230,524</u>	<u>\$ 5,553</u>	<u>11,068,539</u>	<u>\$ 784,771</u>	<u>\$ (29,423)</u>	<u>\$ 760,901</u>
Cash distribution paid (\$0.30 per unit—see Note 15)	—	(69)	—	(3,295)	—	(3,364)
Acquisition of treasury stock (see Note 8)	—	—	(85,812)	(1,126)	—	(1,126)
Stock based compensation (see Note 8)	—	—	—	519	—	519
Issuance of capital surplus	—	—	1,058	—	—	—
Net loss	—	(129)	—	(6,394)	—	(6,523)
Balance, June 30, 2019	<u>230,524</u>	<u>\$ 5,355</u>	<u>10,983,785</u>	<u>\$ 774,475</u>	<u>\$ (29,423)</u>	<u>\$ 750,407</u>
Cash distribution paid (\$0.30 per unit—see Note 15)	—	(69)	—	(3,295)	—	(3,364)
Stock based compensation (see Note 8)	—	—	—	524	—	524
Cancellation of shares	—	—	(75)	—	—	—
Net income	—	339	—	16,520	—	16,859
Balance, September 30, 2019	<u>230,524</u>	<u>\$ 5,625</u>	<u>10,983,710</u>	<u>\$ 788,224</u>	<u>\$ (29,423)</u>	<u>\$ 764,426</u>

See unaudited condensed notes to the condensed consolidated financial statements

NAVIOS MARITIME PARTNERS L.P.
UNAUDITED CONDENSED NOTES TO THE CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Expressed in thousands of U.S. Dollars except unit and per unit data)

NOTE 1 – DESCRIPTION OF BUSINESS

Navios Maritime Partners L.P. (“Navios Partners” or the “Company”), is an international owner and operator of dry cargo vessels, formed on August 7, 2007 under the laws of the Republic of the Marshall Islands. Navios GP L.L.C., a wholly owned subsidiary of Navios Maritime Holdings Inc. (“Navios Holdings”), was also formed on that date to act as the general partner of Navios Partners. Currently, our general partner is Olympos Maritime Ltd. (the “General Partner”) and holds a 2.1% general partner interest in Navios Partners.

Navios Partners is engaged in the seaborne transportation services of a wide range of dry cargo commodities including iron ore, coal, grain, fertilizer and also containers, chartering its vessels under medium to longer-term charters. The operations of Navios Partners are managed by Navios Shipmanagement Inc., (the “Manager”), from its offices in Piraeus, Greece, Singapore and Monaco.

Pursuant to the initial public offering (“IPO”) on November 16, 2007, Navios Partners entered into the following agreements:

- (a) a management agreement with the Manager (the “Management Agreement”), pursuant to which the Manager provides Navios Partners commercial and technical management services;
- (b) an administrative services agreement with the Manager (the “Administrative Services Agreement”), pursuant to which the Manager provides Navios Partners administrative services; and
- (c) an omnibus agreement with Navios Holdings (the “Omnibus Agreement”), governing, among other things, when Navios Partners and Navios Holdings may compete against each other as well as rights of first offer on certain drybulk carriers.

In August 2019, Navios Holdings announced that it sold certain assets, including its ship management division and the general partnership interest in Navios Partners to N Shipmanagement Acquisition Corp. and related entities, affiliated with our Chairman and Chief Executive Officer.

As of September 30, 2020, there were 11,267,997 outstanding common units and 236,070 general partnership units. As of September 30, 2020, Navios Holdings owned an 18.4% common unit interest in Navios Partners and the General Partner owned a 2.1% general partner interest in Navios Partners.

NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of presentation: The accompanying interim condensed consolidated financial statements are unaudited, but, in the opinion of management, reflect all adjustments for a fair statement of Navios Partners’ consolidated balance sheets, statement of partner’s capital, statements of operations and cash flows for the periods presented. The results of operations for the interim periods are not necessarily indicative of results for the full year. The footnotes are condensed as permitted by the requirements for interim financial statements and accordingly, do not include information and disclosures required under United States generally accepted accounting principles (“U.S. GAAP”) for complete financial statements. All such adjustments are deemed to be of a normal recurring nature. These interim financial statements should be read in conjunction with the Company’s consolidated financial statements and notes included in Navios Partners’ Annual Report for the year ended December 31, 2019 filed on Form 20-F with the U.S. Securities and Exchange Commission (“SEC”).

Reverse Stock Split:

On April 25, 2019, the Company’s unitholders approved a 1-for-15 reverse stock split of the Company’s outstanding common and general partner units, which was effected on May 21, 2019. The effect of the reverse stock split was to combine each 15 shares of outstanding units into one new share, with no change in authorized shares or per value per share, and to reduce the number of common units outstanding from approximately 164.7 million units to approximately 11.0 million units. 983 common units were issued in connection with the reverse stock split. All issued and outstanding common units contained in the financial statements, in accordance with Staff Accounting Bulletin Topic 4C, have been retroactively adjusted to reflect the reverse split for all periods presented.

NAVIOS MARITIME PARTNERS L.P.
UNAUDITED CONDENSED NOTES TO THE CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Expressed in thousands of U.S. Dollars except unit and per unit data)

Principles of consolidation: The accompanying interim condensed consolidated financial statements include Navios Partners' wholly owned subsidiaries incorporated under the laws of Marshall Islands, Malta, and Liberia from their dates of incorporation or, for chartered-in vessels, from the dates charter-in agreements were in effect. All significant inter-company balances and transactions have been eliminated in Navios Partners' interim condensed consolidated financial statements.

Navios Partners also consolidates entities that are determined to be variable interest entities ("VIE") as defined in the accounting guidance, if it determines that it is the primary beneficiary. A VIE is defined as a legal entity where either (i) equity interest holders as a group lack the characteristics of a controlling financial interest, including decision making ability and an interest in the entity's residual risks and rewards, (ii) the equity holders have not provided sufficient equity investment to permit the entity to finance its activities without additional subordinated financial support, or (iii) the voting rights of some investors are not proportional to their obligations to absorb the expected losses of the entity, their rights to receive the expected residual returns of the entity, or both and substantially all of the entity's activities either involve or are conducted on behalf of an investor that has disproportionately few voting rights.

As of September 30, 2020, Navios Partners' current assets totaled \$67,137, while current liabilities totaled \$277,073, resulting in a negative working capital position of \$209,936, primarily related to balloon payments totaling \$131,547 due under its credit facilities in the second and third quarters of 2021. The vessels have an aggregate fair value significantly in excess of the outstanding debt which Management expects will enable the repayment of the above balloon payments either through refinancing with existing or new commercial banks and other financial institutions or sale of the vessels. In the meantime, Navios Partners' cash forecast indicates that it will generate sufficient cash to make the required principal and interest payments on its indebtedness (excluding the balloon payments), provide for the normal working capital requirements of the business for a period of at least twelve months from the date of issuance of these condensed consolidated financial statements. Accordingly, the Company continues to adopt the going concern basis in preparing its financial statements.

Subsidiaries: Subsidiaries are those entities in which Navios Partners have an interest of more than one half of the voting rights or otherwise has power to govern the financial and operating policies of the entity.

The accompanying interim condensed consolidated financial statements include the following entities:

Company name	Vessel name	Country of incorporation	2020	2019
Libra Shipping Enterprises Corporation ⁽¹⁾	Navios Libra II	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Alegria Shipping Corporation	Navios Alegria	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Felicity Shipping Corporation ⁽²⁾	Navios Felicity	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Gemini Shipping Corporation ⁽³⁾	Navios Gemini S	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Galaxy Shipping Corporation ⁽⁴⁾	Navios Galaxy I	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Aurora Shipping Enterprises Ltd.	Navios Hope	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Palermo Shipping S.A. ⁽⁵⁾	Navios Apollon	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Fantastiks Shipping Corporation ⁽¹²⁾	Navios Fantastiks	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Sagittarius Shipping Corporation ⁽¹²⁾	Navios Sagittarius	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Hyperion Enterprises Inc.	Navios Hyperion	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Chilali Corp.	Navios Aurora II	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Surf Maritime Co.	Navios Pollux	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Pandora Marine Inc.	Navios Melodia	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Customized Development S.A.	Navios Fulvia	Liberia	1/01 – 09/30	1/01 – 09/30
Kohylia Shipmanagement S.A.	Navios Luz	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Orbiter Shipping Corp.	Navios Orbiter	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Floral Marine Ltd.	Navios Buena Ventura	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Golem Navigation Limited	Navios Soleil	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Kymata Shipping Co.	Navios Helios	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Joy Shipping Corporation	Navios Joy	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Micaela Shipping Corporation	Navios Harmony	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Pearl Shipping Corporation	Navios Sun	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Velvet Shipping Corporation	Navios La Paix	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Perigiali Navigation Limited ⁽¹²⁾	Navios Beaufiks	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Finian Navigation Co. ⁽¹²⁾	Navios Ace	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Ammos Shipping Corp.	Navios Prosperity I	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Wave Shipping Corp.	Navios Libertas	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Casual Shipholding Co. ⁽¹²⁾	Navios Sol	Marshall Is.	1/01 – 09/30	1/01 – 09/30

NAVIOS MARITIME PARTNERS L.P.
UNAUDITED CONDENSED NOTES TO THE CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Expressed in thousands of U.S. Dollars except unit and per unit data)

Avery Shipping Company	Navios Symphony	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Coasters Ventures Ltd.	Navios Christine B	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Ianthe Maritime S.A.	Navios Aster	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Rubina Shipping Corporation	Hyundai Hongkong	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Topaz Shipping Corporation	Hyundai Singapore	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Beryl Shipping Corporation	Hyundai Tokyo	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Cheryl Shipping Corporation	Hyundai Shanghai	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Christal Shipping Corporation	Hyundai Busan	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Dune Shipping Corp.(6)	MSC Cristina	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Citrine Shipping Corporation	—	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Cavalli Navigation Inc.	—	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Seymour Trading Limited	Navios Altair I	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Goldie Services Company	Navios Symmetry	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Andromeda Shiptrade Limited	Navios Apollon I	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Esmeralda Shipping Corporation	Navios Sphera	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Triangle Shipping Corporation	Navios Mars	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Oceanus Shipping Corporation(7)	Castor N	Marshall Is.	1/01 – 09/30	—
Cronus Shipping Corporation(7)	Protostar N	Marshall Is.	1/01 – 09/30	—
Leto Shipping Corporation(7)	Esperanza N	Marshall Is.	1/01 – 09/30	—
Dionysus Shipping Corporation(7)	Harmony N	Marshall Is.	1/01 – 09/30	—
Prometheus Shipping Corporation(7)	Solar N	Marshall Is.	1/01 – 09/30	—
Camelia Shipping Inc.(8)	Navios Camelia	Marshall Is.	1/01 – 09/30	—
Anthos Shipping Inc.(8)	Navios Anthos	Marshall Is.	1/01 – 09/30	—
Azalea Shipping Inc.(8)	Navios Azalea	Marshall Is.	1/01 – 09/30	—
Amaryllis Shipping Inc.(8)	Navios Amaryllis	Marshall Is.	1/01 – 09/30	—
Zaffre Shipping Corporation(13)	Serenitas N	Marshall Is.	06/29 – 09/30	—
Wenge Shipping Corporation(13)	Joie N	Marshall Is.	06/29 – 09/30	—
Sunstone Shipping Corporation(13)	Copernicus N	Marshall Is.	06/29 – 09/30	—
Fandango Shipping Corporation(13)	Unity N	Marshall Is.	06/29 – 09/30	—
Flavescent Shipping Corporation(13)	Odysseus N	Marshall Is.	06/29 – 09/30	—
Emery Shipping Corporation(14)	Navios Gem	Marshall Is.	09/30 – 09/30	—
Rondine Management Inc. (14)	Navios Victory	Marshall Is.	09/30 – 09/30	—
Bareboat Chartered-in vessels				
Cavos Navigation Co.(9)	Navios Libra	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Perivoia Shipmanagement Co.(10)	Navios TBN1	Marshall Is.	1/01 – 09/30	09/25 – 09/30
Pleione Management Limited(10)	Navios TBN2	Marshall Is.	1/01 – 09/30	09/25 – 09/30
Other				
Prosperity Shipping Corporation	—	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Aldebaran Shipping Corporation	—	Marshall Is.	1/01 – 09/30	1/01 – 09/30
JTC Shipping and Trading Ltd.(11)	Holding Company	Malta	1/01 – 09/30	1/01 – 09/30
Navios Maritime Partners L.P.	N/A	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Navios Maritime Operating LLC.	N/A	Marshall Is.	1/01 – 09/30	1/01 – 09/30
Navios Partners Finance (US) Inc.	Co-Borrower	Delaware	1/01 – 09/30	1/01 – 09/30
Navios Partners Europe Finance Inc.	Sub-Holding Company	Marshall Is.	1/01 – 09/30	1/01 – 09/30

- (1) The vessel was sold on December 14, 2018.
- (2) The vessel was sold on December 4, 2018.
- (3) The vessel was sold on December 21, 2017.
- (4) The vessel was sold on April 23, 2019 (see Note 4 – Vessels, net).
- (5) The vessel was sold on April 21, 2017.
- (6) The vessel was sold on January 12, 2017.
- (7) The vessels were acquired on December 13, 2019, following the liquidation of Navios Europe I (see Note 4 – Vessels, net).
- (8) The vessels were acquired on December 16, 2019 (see Note 4 – Vessels, net).
- (9) The vessel was delivered on July 24, 2019 (see Note 17 – Leases).
- (10) The vessels are expected to be delivered by first half of 2021 (see Note 11 – Commitments and Contingencies).
- (11) Not a vessel-owning subsidiary and only holds right to charter-in contracts.
- (12) Vessels under the sale and leaseback transaction (see Note 17 – Leases).
- (13) The vessels were acquired on June 29, 2020, following the liquidation of Navios Europe II (see Note 4 – Vessels, net).
- (14) The vessels were acquired on September 30, 2020, from Navios Holdings (see Note 4 – Vessels, net).

NAVIOS MARITIME PARTNERS L.P.
UNAUDITED CONDENSED NOTES TO THE CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Expressed in thousands of U.S. Dollars except unit and per unit data)

Investments in Affiliates: Affiliates are entities over which the Company generally has between 20% and 50% of the voting rights, or over which the Company has significant influence, but it does not exercise control. Investments in these entities are accounted for under the equity method of accounting. Under this method, the Company records an investment in the stock of an affiliate at cost, and adjusts the carrying amount for its share of the earnings or losses of the affiliate subsequent to the date of investment and reports the recognized earnings or losses in income. Dividends received from an affiliate reduce the carrying amount of the investment. The Company recognizes gains and losses in earnings for the issuance of shares by its affiliates, provided that the issuance of such shares qualifies as a sale of such shares. When the Company's share of losses in an affiliate equals or exceeds its interest in the affiliate, the Company does not recognize further losses, unless the Company has incurred obligations or made payments on behalf of the affiliate.

Affiliates included in the financial statements accounted for under the equity method: In the consolidated financial statements of Navios Partners, the following entities are included as affiliates and are accounted for under the equity method for such periods: (i) Navios Containers and its subsidiaries (ownership interest as of September 30, 2020 was 35.7%); (ii) Navios Europe I and its subsidiaries, for the comparative period as the entity was liquidated on December 13, 2019; and (iii) Navios Europe II and its subsidiaries through the date of its liquidation on June 29, 2020, with an ownership interest of 5% (see Notes 12 and 14).

Navios Partners evaluates its investments in Navios Containers for other than temporary impairment ("OTTI") on a quarterly basis. Consideration is given to: (i) the length of time and the extent to which the fair value has been less than the carrying value; (ii) the financial condition and near-term prospects of Navios Containers; and (iii) the intent and ability of the Company to retain its investment in Navios Containers, for a period of time sufficient to allow for any anticipated recovery in fair value (see Note 14 – Investment in Affiliates).

Revenue and Expense Recognition: On January 1, 2018, the Company adopted the provisions of ASC 606 "Revenue from Contracts with Customers" using the modified retrospective approach. In doing so, the Company makes judgments including identifying performance obligations in the contract, estimating the amount of variable consideration to include in the transaction price, and allocating the transaction price to each performance obligation. Revenue is recognized when (or as) the Company transfers promised goods or services to its customers in amounts that reflect the consideration to which the company expects to be entitled to in exchange for those goods or services, which occurs when (or as) the Company satisfies its contractual obligations and transfers control of the promised goods or services to its customers. Revenues are recognized to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. In determining the appropriate amount of revenue to be recognized as it fulfills its obligations under its agreements, the Company performs the following steps: (i) identification of the promised goods or services in the contract; (ii) determination of whether the promised goods or services are performance obligations, including whether they are distinct in the context of the contract; (iii) measurement of the transaction price, including the constraint on variable consideration; (iv) allocation of the transaction price to the performance obligations based on estimated selling prices; and (v) recognition of revenue when (or as) the Company satisfies each performance obligation.

The Company has elected to early adopt the requirements of ASU 2016-02 effective January 1, 2018, using the modified retrospective method which is consistent with the approach the Company has elected under the new revenue standard, and elected to apply the additional optional transition method along with the following practical expedients: a package of practical expedients which does not require the Company to reassess: (1) whether any expired or existing contracts are or contain leases; (2) lease classification for any expired or existing leases; and (3) whether initial direct costs for any expired or existing leases would qualify for capitalization under ASC 842.

The Company's contract revenues from time chartering and pooling arrangements are governed by ASU 2016-02 (ASC 842) "Leases". Upon adoption of ASC 606 and ASC 842, the timing and recognition of earnings from the pool arrangements and time charter contracts to which the Company is party did not change from previous practice. The Company has determined to recognize lease revenue as a combined single lease component for all time charters (operating leases) as the related lease component and non-lease components will have the same timing and pattern of the revenue recognition of the combined single lease component. The performance obligations in a time charter contract are satisfied over term of the contract beginning when the vessel is delivered to the charterer until it is redelivered back to the Company. As a result of the adoption of these standards, there was no effect on the Company's retained earnings, as at January 1, 2018.

NAVIOS MARITIME PARTNERS L.P.
UNAUDITED CONDENSED NOTES TO THE CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Expressed in thousands of U.S. Dollars except unit and per unit data)

Revenue from time chartering

Revenues from time chartering of vessels are accounted for as operating leases and are thus recognized on a straight line basis as the average lease revenue over the rental periods of such charter agreements, as service is performed. A time charter involves placing a vessel at the charterers' disposal for a period of time during which the charterer uses the vessel in return for the payment of a specified daily hire rate. Short period charters for less than three months are referred to as spot-charters. Charters extending three months to a year are generally referred to as medium-term charters. All other charters are considered long-term. Under time charters, operating costs such as for crews, maintenance and insurance are typically paid by the owner of the vessel. Revenue from time chartering of vessels amounted to \$61,005 and \$59,303 for the three month periods ended September 30, 2020 and 2019, respectively. Revenue from time chartering of vessels amounted to \$152,333 and \$148,282 for the nine month periods ended September 30, 2020 and 2019, respectively.

Revenue from voyage contracts

The Company's revenues earned under voyage contracts (revenues for the transportation of cargo) were previously recognized ratably over the estimated relative transit time of each voyage. A voyage was deemed to commence when a vessel was available for loading and was deemed to end upon the completion of the discharge of the current cargo. Estimated losses on voyages are provided for in full at the time such losses become evident. Under a voyage charter, a vessel is provided for the transportation of specific goods between specific ports in return for payment of an agreed upon freight per ton of cargo. Upon adoption of ASC 606, the Company recognizes revenue ratably from port of loading to when the charterer's cargo is discharged as well as defer costs that meet the definition of "costs to fulfill a contract" and relate directly to the contract. During 2017, no freight voyage existed and therefore, there was no impact on the Company's retained earnings as at January 1, 2018. Revenue from voyage contracts amounted to \$2,128 and \$2,276 for the three month periods ended September 30, 2020 and 2019, respectively. Revenue from voyage contracts amounted to \$2,434 and \$6,084 for the nine month periods ended September 30, 2020 and 2019, respectively.

Pooling arrangements

For vessels operating in pooling arrangements, the Company earns a portion of total revenues generated by the pool, net of expenses incurred by the pool. The amount allocated to each pool participant vessel, including the Company's vessels, is determined in accordance with an agreed-upon formula, which is determined by points awarded to each vessel in the pool based on the vessel's age, design and other performance characteristics. Revenue under pooling arrangements is accounted for as variable rate operating leases on the accrual basis and is recognized when an agreement with the pool exists, price is fixed, service is provided and the collectability is reasonably assured. The allocation of such net revenue may be subject to future adjustments by the pool however, such changes are not expected to be material. The Company recognizes net pool revenue on a monthly and quarterly basis, when the vessel has participated in a pool during the period and the amount of pool revenue can be estimated reliably based on the pool report. Revenue from vessels operating in pooling arrangements amounted to \$1,366 and \$1,969 for the three month periods ended September 30, 2020 and 2019, respectively. Revenue from vessels operating in pooling arrangements amounted to \$2,771 and \$3,745 for the nine month periods ended September 30, 2020 and 2019, respectively.

Revenue from profit-sharing

Profit-sharing revenues are calculated at an agreed percentage of the excess of the charterer's average daily income (calculated on a quarterly or half-yearly basis) over an agreed amount and accounted for on an accrual basis based on provisional amounts and for those contracts that provisional accruals cannot be made due to the nature of the profit sharing elements, these are accounted for on the actual cash settlement or when such revenue becomes determinable. There was no profit sharing revenue for each of the three month periods ended September 30, 2020 and 2019. There was no profit sharing revenue for each of the nine month periods ended September 30, 2020 and 2019.

Revenues are recorded net of address commissions. Address commissions represent a discount provided directly to the charterers based on a fixed percentage of the agreed upon charter or freight rate. Since address commissions represent a discount (sales incentive) on services rendered by the Company and no identifiable benefit is received in exchange for the consideration provided to the charterer, these commissions are presented as a reduction of revenue.

Recent Accounting Pronouncements:

In March 2020, the FASB issued ASU 2020-4, "Reference Rate Reform (Topic 848)" ("ASU 2020-4"), which provides optional guidance, intended to ease the potential burden in accounting for the expected discontinuation of LIBOR as a reference rate in the financial markets. The guidance can be applied to modifications made to certain contracts to replace LIBOR with a new reference rate. The guidance, if elected, will permit entities to treat such modifications as the continuation of the original contract, without any required accounting reassessments or remeasurements. The ASU 2020-4 was effective for the Company beginning on March 12, 2020 and the Company will apply the amendments prospectively through December 31, 2022. There was no impact to the Company's unaudited condensed consolidation financial statements as a result of adopting this standard update. Currently, the Company has various contracts that reference LIBOR and is assessing how this standard may be applied to specific contract modifications.

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In October 2018, the Financial Accounting Standards Board (“FASB”) issued ASU 2018-17, Consolidation (Topic 810): “Targeted Improvements to Related Party Guidance for Variable Interest Entities” (“ASU 2018-17”). ASU 2018-17 provides that indirect interests held through related parties in common control arrangements should be considered on a proportional basis for determining whether fees paid to decision makers and service providers are variable interests. This is consistent with how indirect interests held through related parties under common control are considered for determining whether a reporting entity must consolidate a VIE. For public business entities the amendments are effective for fiscal years beginning after December 15, 2019, and interim periods within those fiscal years. Early adoption is permitted. The adoption of this new accounting guidance did not have a material effect on the Company’s consolidated financial statements.

In August 2018, FASB issued ASU 2018-13, “Fair Value Measurement (Topic 820): Disclosure Framework-Changes to the Disclosure Requirements for Fair Value Measurement”. This update modifies the disclosure requirements on fair value measurements. ASU 2018-13 is effective for fiscal years beginning after December 15, 2019, and earlier adoption is permitted. The adoption of this new accounting guidance did not have a material effect on the Company’s consolidated financial statements.

In June 2016, FASB issued ASU No. 2016-13, “Financial Instruments-Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments”. This standard requires entities to measure all expected credit losses of financial assets held at a reporting date based on historical experience, current conditions, and reasonable and supportable forecasts in order to record credit losses in a timelier manner. ASU 2016-13 also amends the accounting for credit losses on available-for-sale debt securities and purchased financial assets with credit deterioration. The standard is effective for interim and annual reporting periods beginning after December 15, 2019, although early adoption is permitted for interim and annual periods beginning after December 15, 2018. In November 2018, FASB issued ASU 2018-19 “Codification Improvements to topic 326, Financial Instruments-Credit Losses”. The amendments in this update clarify that operating lease receivables are not within the scope of ASC 326-20 and should instead be accounted for under the new leasing standard, ASC 842. In April 2019, FASB issued ASU 2019-04 “Codification Improvements to topic 326, Financial Instruments-Credit Losses, Topic 815, Derivatives and Hedging, and Topic 825, Financial Instruments”. In May 2019, FASB issued ASU 2019-05, “Financial Instruments-Credit Losses (Topic 326): Targeted Transition Relief”. The amendments in this update provide entities that have certain instruments within the scope of Subtopic 326-20, Financial Instruments-Credit Losses-Measured at Amortized Cost, with an option to irrevocably elect the fair value option in Subtopic 825-10, Financial Instruments-Overall, applied on an instrument-by-instrument basis for eligible instruments, upon adoption of Topic 326. The fair value option election does not apply to held-to-maturity debt securities. An entity that elects the fair value option should subsequently apply the guidance in Subtopics 820-10, Fair Value Measurement-Overall, and 825-10. In November 2019, FASB issued ASU No. 2019-11, Codification Improvements to Topic 326, Financial Instruments-Credit Losses. This update introduced an expected credit loss model for the impairment of financial assets measured at amortized cost basis. That model replaces the probable, incurred loss model for those assets. The standard is effective for interim and annual reporting periods beginning after December 15, 2019.

The Company has assessed all the expected credit losses of its financial assets and the adoption of this ASU did not have a material impact on the Company’s consolidated financial statements.

NOTE 3 – CASH AND CASH EQUIVALENTS

Cash and cash equivalents consist of the following:

	September 30, 2020	December 31, 2019
Cash and cash equivalents	\$ 22,637	\$ 23,354
Restricted cash	7,978	7,048
Total cash and cash equivalents and restricted cash	\$ 30,615	\$ 30,402

Short-term deposits and highly liquid funds relate to amounts held in banks for general financing purposes and represent deposits with an original maturity of less than three months.

Cash deposits and cash equivalents in excess of amounts covered by government-provided insurance are exposed to loss in the event of non-performance by financial institutions. Navios Partners does maintain cash deposits and equivalents in excess of government-provided insurance limits. Navios Partners also minimizes exposure to credit risk by dealing with a diversified group of major financial institutions.

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Restricted cash at September 30, 2020 and December 31, 2019, included \$7,978 and \$7,048, respectively, which related to amounts held in retention accounts in order to service debt and interest payments, as required by certain of Navios Partners' credit facilities.

NOTE 4 – VESSELS, NET

Vessels	Cost	Accumulated Depreciation	Net Book Value
Balance December 31, 2018	\$ 1,360,231	\$ (316,981)	\$ 1,043,250
Additions	113,391	(52,088)	61,303
Disposals	(5,696)	81	(5,615)
Vessels impairment loss	(97,170)	60,490	(36,680)
Balance December 31, 2019	\$ 1,370,756	\$ (308,498)	\$ 1,062,258
Additions	109,436	(40,579)	68,857
Vessels impairment loss	(9,315)	735	(8,580)
Balance September 30, 2020	\$ 1,470,877	\$ (348,342)	\$ 1,122,535

During the nine month periods ended September 30, 2020 and 2019, certain extraordinary fees and costs related to vessels' regulatory requirements, including ballast water treatment system installation and exhaust gas cleaning system installation, amounted to \$2,386 and \$11,223, respectively (see Note 12 – Transactions with related parties).

Acquisition of Vessels

2020

On September 30, 2020, Navios Partners acquired the Navios Gem, a 2014-built Capesize vessel of 181,336 dwt and the Navios Victory, a 2014-built Panamax vessel of 77,095 dwt, from its affiliate, Navios Holdings, for a purchase price of \$51,000 (see Note 12 – Transactions with Related Parties).

On June 29, 2020, Navios Partners acquired five drybulk vessels, three Panamax and two Ultra-Handymax, for a fair value of \$56,050 in total, following the liquidation of Navios Europe II (see Note 12 – Transactions with related parties).

2019

On December 16, 2019, Navios Partners acquired four drybulk vessels, from an entity affiliated with the Company's Chairman and CEO, for a fair value of \$40,379, in total, through a bank financing of \$37,000 (see Note 12—Transactions with Related Parties).

On December 13, 2019, Navios Partners acquired three Sub-Panamax and two Panamax Containerships for a fair value of \$56,083, in total, following the liquidation of Navios Europe I (see Note 12—Transactions with Related Parties).

Sale of Vessels

2019

On April 23, 2019, Navios Partners sold the Navios Galaxy I to an unrelated third party, for a net sale price of \$5,978. Following the impairment loss of \$7,345 recognized as of March 31, 2019, no loss on sale occurred upon disposal of the vessel.

Vessels impairment loss

2020

In October 2020, Navios Partners entered into a Memorandum of Agreement with an unrelated third party for the disposal of the Esperanza N for a net sale price of \$4,559. The vessel was subject to an existing time charter with an unrelated charterer and was not immediately available for sale and therefore, did not qualify as an asset held for sale as of September 30, 2020. As of September 30, 2020, the Company had a current expectation that the vessel would be sold before the end of its previously estimated useful life, and as a result performed an impairment test of the specific asset group. An impairment loss of \$1,780 has been recognized under the caption "Vessels impairment loss" in the condensed Consolidated Statements of Operations as of September 30, 2020.

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Impact of COVID-19 on the Company's Business

The spread of the COVID-19 virus, which has been declared a pandemic by the World Health Organization, in 2020, has caused substantial disruptions in the global economy and the shipping industry, as well as significant volatility in the financial markets, the severity and duration of which remains uncertain.

The impact of the COVID-19 pandemic continues to unfold and may continue to have negative effect on our business, financial performance and the results of our operations, including due to decreased demand for global seaborne dry bulk and container trade and dry bulk and containership charter rates, the extent of which will depend largely on future developments. As a result, many of our estimates and assumptions required increased judgment and carry a higher degree of variability and volatility. As events continue to evolve and additional information becomes available, our estimates may change in future periods.

We have evaluated the impact of current economic situation on the recoverability of the carrying amount of our vessels. As of June 30, 2020, we concluded that events and circumstances triggered the existence of potential impairment of our vessels. These indicators included volatility in the charter market as well as the potential impact the current marketplace may have on our future operations. As a result, we performed step one of the impairment assessment of our vessels by comparing the undiscounted projected net operating cash flows for each vessel to its carrying value. As of June 30, 2020, our assessment concluded that step two of the impairment analysis was required for three containerships held and used, as the undiscounted projected net operating cash flows did not exceed the carrying value. As a result, the Company recorded an impairment loss of \$6,800 for these vessels, being the difference between the fair value and the vessel's carrying value together with the carrying value of deferred drydock and special survey costs related to the vessel presented under the caption "Vessels impairment loss" in the Condensed Consolidated Statements of Operations as of June 30, 2020. As of September 30, 2020, we concluded that events and circumstances did not trigger the existence of potential impairment of our vessels, mainly due to the market improvement since June 30, 2020.

2019

As of December 31, 2019, our assessment concluded that step two of the impairment analysis was required for one of our vessels held and used, as the undiscounted projected net operating cash flows did not exceed the carrying value. As a result, the Company recorded an impairment loss of \$29,335 for this vessel, being the difference between the fair value and the vessel's carrying value together with the carrying value of deferred drydock and special survey costs related to the vessel.

On March 21, 2019, Navios Partners entered into a Memorandum of Agreement with an unrelated third party for the disposal of the Navios Galaxy I for a net sale price of \$5,978. The vessel was subject to an existing time charter with an unrelated charterer and was not immediately available for sale and therefore, did not qualify as an asset held for sale as of March 31, 2019. As of March 31, 2019, the Company had a current expectation that the vessel would be sold before the end of its previously estimated useful life, and as a result performed an impairment test of the specific asset group. An impairment loss of \$7,345 has been recognized under the caption "Vessels impairment loss" in the condensed Consolidated Statements of Operations as of March 31, 2019. The vessel was sold on April 23, 2019.

NOTE 5 – INTANGIBLE ASSETS

Intangible assets as of September 30, 2020 and December 31, 2019 consisted of the following:

	<u>Cost</u>	<u>Accumulated Amortization</u>	<u>Net Book Value</u>
Favorable lease terms December 31, 2019	\$83,716	\$ (80,550)	\$ 3,166
Additions	—	(874)	(874)
Favorable lease terms September 30, 2020	<u>\$83,716</u>	<u>\$ (81,424)</u>	<u>\$ 2,292</u>

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Amortization expense of favorable lease terms for each of the periods ended September 30, 2020 and 2019 is presented in the following table:

	Three Month Period Ended		Nine Month Period Ended	
	September 30, 2020	September 30, 2019	September 30, 2020	September 30, 2019
Favorable lease terms	\$ (291)	\$ (292)	\$ (874)	\$ (875)
Total	\$ (291)	\$ (292)	\$ (874)	\$ (875)

The aggregate amortization of the intangibles for the 12-month periods ended September 30 is estimated to be as follows:

Year	Amount
2021	1,166
2022	1,126
2023	—
2024 and thereafter	—
Total	\$2,292

Intangible assets subject to amortization are amortized using straight line method over their estimated useful lives to their estimated residual value of zero. The weighted average useful lives are 11.8 years for the remaining favorable lease terms, at inception.

NOTE 6 – BORROWINGS

Borrowings as of September 30, 2020 and December 31, 2019 consisted of the following:

	September 30, 2020	December 31, 2019
Credit facilities	\$ 445,083	\$ 404,280
Financial liabilities	65,472	90,086
Total borrowings	\$ 510,555	\$ 494,366
Less: Current portion of long-term borrowings, net	(204,637)	(59,780)
Less: Deferred finance costs, net	(4,883)	(5,338)
Long-term borrowings, net	\$ 301,035	\$ 429,248

As of September 30, 2020, the total borrowings, net of deferred finance costs under the Navios Partners' credit facilities were \$505,672.

Credit Facilities

As of September 30, 2020, the Company had secured credit facilities with various commercial banks with a total outstanding balance of \$445,083. The purpose of the facilities was to finance the construction or acquisition of vessels or refinance existing indebtedness. All of the facilities are denominated in U.S. dollars and bear interest based on LIBOR plus spread ranging from 2.6% to 7.0% per annum. The facilities are repayable in either semi-annual or quarterly installments, followed by balloon payments with maturities, ranging from June 2021 to September 2025. See also the maturity table included below.

On September 30, 2020, the Company entered into a second supplemental agreement with ABN Amro Bank N.V., to extend the terms of the then outstanding balance. The Company had initially entered into a credit facility with ABN Amro Bank N.V., on December 12, 2019, of up to \$23,500, in order to finance the acquisition of the five containerships acquired from Navios Europe I, which had subsequently been refinanced from Hellenic Bank Public Company Limited in June 2020. Following the second supplemental agreement, the outstanding balance of \$3,542 is repayable in three consecutive quarterly installments of \$173 with a final balloon payment of \$3,024 to be repaid on the last repayment date. The facility matures in the second quarter of 2021 and bears interest at LIBOR plus 400 bps per annum up to February 28, 2019 and 600 bps per annum up to maturity date. As of September 30, 2020, the total outstanding balance was \$3,542.

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On September 28, 2020, the Company entered into a new credit facility with Credit Agricole Corporate and Investment Bank of up to \$33,000 in order to finance the acquisition of the two drybulk vessels acquired from Navios Maritime Holdings. The credit facility is repayable in 20 consecutive quarterly installments of \$850 with a final balloon payment of \$16,000 to be repaid on the last repayment date. The facility matures in the third quarter of 2025 and bears interest at LIBOR plus 325 bps per annum up to maturity date. As of September 30, 2020, the total outstanding balance was \$33,000.

On June 26, 2020, the Company entered into a new credit facility with ABN Amro Bank N.V. of up to \$32,200 in order to finance the acquisition of the five drybulk vessels acquired from Navios Europe II. The credit facility is repayable in four consecutive quarterly installments of \$1,190, with a final balloon payment of \$24,715 to be repaid on the last repayment date. The facility matures in the second quarter of 2021 and bears interest at LIBOR plus 400 bps per annum up to December 31, 2020 and 425 bps per annum up to maturity date. As of September 30, 2020, the total outstanding balance was \$28,285.

On June 25, 2020, the Company entered into a new credit facility with Hellenic Bank Public Company Limited in order to refinance the existing credit facility, relating to four of the containerships acquired from Navios Europe I, of up to \$17,000. The credit facility is repayable in four consecutive quarterly installments of \$520 and ten consecutive quarterly installments of \$660, with a final balloon payment of \$8,320 to be repaid on the last repayment date. The facility matures in the fourth quarter of 2023 and bears interest at LIBOR plus 350 bps per annum. As of September 30, 2020, the total outstanding balance was \$16,480.

Amounts drawn under the credit facilities are secured by first preferred mortgages on certain Navios Partners' vessels and other collateral and are guaranteed by the respective vessel-owning subsidiaries. The credit facilities contain a number of restrictive covenants that prohibit or limit Navios Partners from, among other things: incurring or guaranteeing indebtedness; entering into affiliate transactions; charging, pledging or encumbering the vessels; changing the flag, class, management or ownership of Navios Partners' vessels; changing the commercial and technical management of Navios Partners' vessels; selling or changing the beneficial ownership or control of Navios Partners' vessels; not maintaining Navios Holdings' (or its affiliates) ownership in Navios Partners of at least 15.0%; and subordinating the obligations under the credit facilities to any general and administrative costs relating to the vessels, including the fixed daily fee payable under the management agreement.

The credit facilities require compliance with a number of financial covenants, including: (i) maintain a required security amount ranging over 120% to 140%; (ii) minimum free consolidated liquidity in an amount equal to at least \$500 to \$650 per owned vessel; (iii) maintain a ratio of EBITDA to interest expense of at least 2.00:1.00; (iv) maintain a ratio of total liabilities or total debt to total assets (as defined in our credit facilities) of less than 0.75; and (v) maintain a minimum net worth to \$135,000.

It is an event of default under the credit facilities if such covenants are not complied with in accordance with the terms and subject to the prepayments or cure provisions of the facilities.

As of September 30, 2020, Navios Partners was in compliance with the financial covenants and/or the prepayments and/or the cure provisions, as applicable, in each of its credit facilities.

Financial Liabilities

In December 2018, the Company entered into two sale and leaseback agreements of \$25,000 in total, with unrelated third parties for the Navios Fantastiks and the Navios Beaufiks. Navios Partners has a purchase obligation to acquire the vessels at the end of the lease term and under ASC 842-40, the transfer of the vessels was determined to be a failed sale. In accordance with ASC 842-40, the Company did not derecognize the respective vessels from its balance sheet and accounted for the amounts received under the sale and leaseback agreements as a financial liability. Navios Partners is obligated to make 69 and 60 consecutive monthly payments, of approximately \$161 and \$155 each, respectively, commencing as of December 2018. As of September 30, 2020, the outstanding balance under the sale and leaseback agreements of the Navios Fantastiks and the Navios Beaufiks was \$21,335 in total. The agreements mature in the third quarter of 2024 and fourth quarter of 2023, respectively, with a purchase obligation of \$6,300 per vessel on the last repayment date.

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On April 5, 2019, the Company entered into a sale and leaseback agreement of \$20,000, with unrelated third parties for the Navios Sol, a 2009-built Capesize vessel of 180,274 dwt. Navios Partners has a purchase obligation to acquire the vessel at the end of the lease term and under ASC 842-40, the transfer of the vessel was determined to be a failed sale. The vessel was not derecognized and continues to be depreciated over its useful life and tested for impairment as per the Company's policy. On April 11, 2019, the amount of \$20,000 was drawn. Navios Partners is obligated to make 120 consecutive monthly payments of approximately \$190 each, commencing as of April 2019. As of September 30, 2020, the outstanding balance under the sale and leaseback agreement of the Navios Sol was \$18,349. The agreement matures in the second quarter of 2029, with a purchase obligation of \$6,300 on the last repayment date.

On June 7, 2019, the Company entered into a sale and leaseback agreement of \$7,500, with unrelated third parties for the Navios Sagittarius, a 2006-built Panamax vessel of 75,756 dwt. Navios Partners has a purchase obligation to acquire the vessel at the end of the lease term and under ASC 842-40, the transfer of the vessel was determined to be a failed sale. The vessel was not derecognized and continues to be depreciated over its useful life and tested for impairment as per the Company's policy. On June 28, 2019, the amount of \$7,500 was drawn. Navios Partners is obligated to make 36 consecutive monthly payments of approximately \$178 each, commencing as of June 2019. As of September 30, 2020, the outstanding balance under the sale and leaseback agreement of the Navios Sagittarius was \$5,176. The agreement matures in the second quarter of 2022, with a purchase obligation of \$2,000 on the last repayment date.

On July 2, 2019, the Company entered into a sale and leaseback agreement of \$22,000, with unrelated third parties for the Navios Ace, a 2011-built Capesize vessel of 179,016 dwt. Navios Partners has a purchase obligation to acquire the vessel at the end of the lease term and under ASC 842-40, the transfer of the vessel was determined to be a failed sale. The vessel was not derecognized and continues to be depreciated over its useful life and tested for impairment as per the Company's policy. On July 24, 2019, the amount of \$22,000 was drawn. Navios Partners is obligated to make 132 consecutive monthly payments of approximately \$198 each, commencing as of July 2019. As of September 30, 2020, the outstanding balance under the sale and leaseback agreement of the Navios Ace was \$20,612. The agreement matures in the third quarter of 2030, with a purchase obligation of \$6,300 on the last repayment date.

The Financial Liabilities have no financial covenants.

The maturity table below reflects the principal payments for the next five years and thereafter of all borrowings of Navios Partners outstanding as of September 30, 2020, based on the repayment schedules of the respective credit facilities and financial liabilities (as described above).

<u>Year</u>	<u>Amount</u>
2021	\$ 206,674
2022	71,565
2023	65,111
2024	97,704
2025 and thereafter	69,501
Total	\$ 510,555

NOTE 7 – FAIR VALUE OF FINANCIAL INSTRUMENTS

The following methods and assumptions were used to estimate the fair value of each class of financial instrument:

Cash and cash equivalents: The carrying amounts reported in the condensed Consolidated Balance Sheets for interest bearing deposits approximate their fair value because of the short maturity of these investments.

Restricted Cash: The carrying amounts reported in the condensed Consolidated Balance Sheets for interest bearing deposits approximate their fair value because of the short maturity of these investments.

Amounts due from related parties, short-term: The carrying amount of due from related parties, short-term reported in the balance sheet approximates its fair value due to the short-term nature of these receivables.

Loans receivable from affiliates: The carrying amount of the fixed rate loan approximates its fair value.

Amounts due from related parties, long-term: The carrying amount of due from related parties long-term reported in the balance sheet approximates its fair value due to the long-term nature of these receivables.

Notes receivable, net of current portion: The carrying amount of the fixed rate notes receivable approximates its fair value.

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Amounts due to related parties, short-term: The carrying amount of due to related parties, short-term reported in the balance sheet approximates its fair value due to the short-term nature of these payables.

Long-term borrowings, net: The book value has been adjusted to reflect the net presentation of deferred finance costs. The outstanding balance of the floating rate loans continues to approximate its fair value, excluding the effect of any deferred finance costs.

The estimated fair values of the Navios Partners' financial instruments are as follows:

	September 30, 2020		December 31, 2019	
	Book Value	Fair Value	Book Value	Fair Value
Cash and cash equivalents	\$ 22,637	\$ 22,637	\$ 23,354	\$ 23,354
Restricted cash	\$ 7,978	\$ 7,978	\$ 7,048	\$ 7,048
Amounts due from related parties, short-term	\$ 10,000	\$ 10,000	\$ 19,108	\$ 19,108
Loans receivable from affiliates	—	—	\$ 16,192	\$ 16,192
Amounts due from related parties, long-term	—	—	\$ 13,757	\$ 13,757
Notes receivable, net of current portion	\$ 7,896	\$ 7,896	\$ 7,554	\$ 7,554
Amounts due to related parties, short-term	\$ 40,338	\$ 40,338	—	—
Long-term borrowings, net	\$(505,672)	\$(510,555)	\$(489,028)	\$(494,366)

Fair Value Measurements

The estimated fair value of our financial instruments that are not measured at fair value on a recurring basis, categorized based upon the fair value hierarchy, are as follows:

Level I: Inputs are unadjusted, quoted prices for identical assets or liabilities in active markets that we have the ability to access. Valuation of these items does not entail a significant amount of judgment.

Level II: Inputs other than quoted prices included in Level I that are observable for the asset or liability through corroboration with market data at the measurement date.

Level III: Inputs that are unobservable. The Company did not use any Level III inputs as of September 30, 2020 and December 31, 2019.

	Fair Value Measurements at September 30, 2020			
	Total	Level I	Level II	Level III
Cash and cash equivalents	\$ 22,637	\$22,637	—	—
Restricted cash	\$ 7,978	\$ 7,978	—	—
Amounts due from related parties, short-term	\$ 10,000	—	\$ 10,000	—
Notes receivable, net of current portion ⁽²⁾	\$ 7,896	—	\$ 7,896	—
Amounts due to related parties, short-term	\$ 40,338	—	\$ 40,338	—
Long-term borrowings, net ⁽¹⁾	\$(510,555)	—	\$(510,555)	—

	Fair Value Measurements at December 31, 2019			
	Total	Level I	Level II	Level III
Cash and cash equivalents	\$ 23,354	\$23,354	—	—
Restricted cash	\$ 7,048	\$ 7,048	—	—
Amounts due from related parties, short-term	\$ 19,108	—	\$ 19,108	—
Loans receivable from affiliates	\$ 16,192	—	\$ 16,192	—
Amounts due from related parties, long-term	\$ 13,757	—	\$ 13,757	—
Notes receivable, net of current portion ⁽²⁾	\$ 7,554	—	\$ 7,554	—
Long-term borrowings, net ⁽¹⁾	\$(494,366)	—	\$(494,366)	—

- (1) The fair value of the Company's debt is estimated based on currently available debt with similar contract terms, interest rate and remaining maturities as well as taking into account our creditworthiness.
- (2) The fair value is estimated based on currently available information on the Company's counterparty with similar contract terms, interest rate and remaining maturities.

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The estimated fair value of our financial instruments that are measured at fair value on a non-recurring basis, categorized based upon the fair value hierarchy, are as follows:

	<u>Fair Value Measurements at September 30, 2020</u>			
	<u>Total</u>	<u>Level I</u>	<u>Level II</u>	<u>Level III</u>
Vessels, net (for Esperanza N)	\$ 4,559	—	\$ 4,559	—

	<u>Fair Value Measurements at December 31, 2019</u>			
	<u>Total</u>	<u>Level I</u>	<u>Level II</u>	<u>Level III</u>
Vessels, net (for Navios Galaxy I)	\$ 5,978	—	\$ 5,978	—

NOTE 8 – ISSUANCE OF UNITS

On November 18, 2016, Navios Partners entered into a Continuous Offering Program Sales Agreement for the issuance and sale from time to time through its agent common units having an aggregate offering price of up to \$25,000. An amended Sales Agreement was entered into on August 3, 2020. As of September 30, 2020, since the commencement of the amended Sales Agreement, Navios Partners has issued 280,318 units and received net proceeds of \$1,740. Pursuant to the issuance of the common units, Navios Partners issued 5,546 general partnership units to its general partner in order to maintain its 2.0% general partner interest. The net proceeds from the issuance of the general partnership units were \$35.

On April 25, 2019, Navios Partners announced that its Board of Directors had approved 1-for-15 reverse stock split of its issued and outstanding shares of common units and general partner units. The reverse stock split was effective on May 21, 2019 and the common units commenced trading on such date on a split adjusted basis.

In January 2019, the Board of Directors of Navios Partners authorized a common unit repurchase program for up to \$50,000 of the Company's common units over a two year period. The program does not require any minimum repurchase or any specific number of common units and may be suspended or reinstated at any time in Navios Partners' discretion and without notice. The Board of Directors will review the program periodically. Repurchases are subject to restrictions under Navios Partners' credit facilities. As of September 30, 2020, Navios Partners had repurchased and cancelled 312,952 common units on a split adjusted basis, for a total cost of approximately \$4,499.

In December 2019, Navios Partners authorized the granting of 4,000 restricted common units, which were issued on December 18, 2019, to its directors and officers, which are based solely on service conditions and vest over four years. The effect of compensation expense arising from the restricted common units described above amounted to \$9 and \$27 for the three and nine month periods ended September 30, 2020 and was presented under the caption "General and administrative expenses" in the condensed Consolidated Statements of Operations. There were no restricted common units exercised, forfeited or expired during the three month period ended September 30, 2020. As of September 30, 2020, none of the restricted common units issued in December 2019 were vested.

In February 2019, Navios Partners authorized the granting of 25,396 restricted common units, which were issued on February 1, 2019, to its directors and officers, which are based solely on service conditions and vest over four years. The fair value of restricted common units was determined by reference to the quoted stock price on the date of grant. Compensation expense, net of estimated forfeitures, is recognized based on a graded expense model over the vesting period. Navios Partners also issued 518 general partnership units to its general partner for net proceeds of \$8. The effect of compensation expense arising from the restricted common units described above for the three and nine month periods ended September 30, 2020, amounted to \$27 and \$88, respectively, and was presented under the caption "General and administrative expenses" in the condensed Consolidated Statements of Operations.

The effect of compensation expense arising from the restricted common units granted in December 2018 and 2017, amounted to \$204 and \$608 for the three and nine month periods ended September 30, 2020 and was presented under the caption "General and administrative expenses" in the condensed Consolidated Statements of Operations.

As of September 30, 2020, the estimated compensation cost relating to service conditions of non-vested restricted common units granted in 2017, 2018 and 2019 not yet recognized was \$802.

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Restricted common units outstanding and not vested were 140,191 shares, on a split adjusted basis, as of September 30, 2020.

Navios Holdings currently owns an approximately 18.2% common unit interest in Navios Partners. The General Partner currently owns a 2.1% general partner interest in Navios Partners.

NOTE 9 – SEGMENT INFORMATION

Navios Partners reports financial information and evaluates its operations by charter revenues. Navios Partners does not use discrete financial information to evaluate operating results for each type of charter or by sector. As a result, management reviews operating results solely by revenue per day and operating results of the fleet and thus Navios Partners has determined that it operates under one reportable segment.

The following table sets out operating revenue by geographic region for Navios Partners' reportable segment. Revenue is allocated on the basis of the geographic region in which the customer is located. Drybulk and containerships operate worldwide. Revenues from specific geographic region, which contribute over 10% of total revenue, are disclosed separately.

Revenue by Geographic Region

Vessels operate on a worldwide basis and are not restricted to specific locations. Accordingly, it is not possible to allocate the assets of these operations to specific countries.

	Three Month Period ended September 30, 2020	Three Month Period ended September 30, 2019	Nine Month Period ended September 30, 2020	Nine Month Period ended September 30, 2019
Asia	\$ 37,381	\$ 33,651	\$ 95,403	\$ 87,568
Europe	21,572	29,042	48,923	67,287
North America	5,527	868	13,063	1,992
Australia	19	(13)	149	1,264
Total	\$ 64,499	\$ 63,548	\$ 157,538	\$ 158,111

NOTE 10 – INCOME TAXES

Marshall Islands, Malta and Liberia do not impose a tax on international shipping income. Under the laws of Marshall Islands, Malta and Liberia, the countries of the vessel-owning subsidiaries' incorporation and vessels' registration, the vessel-owning subsidiaries are subject to registration and tonnage taxes, which have been included in vessel operating expenses in the accompanying condensed Consolidated Statements of Operations.

In accordance with the currently applicable Greek law, foreign flagged vessels that are managed by Greek or foreign ship management companies having established an office in Greece are subject to duties towards the Greek state, which are calculated on the basis of the relevant vessel's tonnage. The payment of said duties exhausts the tax liability of the foreign ship owning company and the relevant manager against any tax, duty, charge or contribution payable on income from the exploitation of the foreign flagged vessel.

Pursuant to Section 883 of the Internal Revenue Code of the United States, U.S. source income from the international operation of ships is generally exempt from U.S. income tax if the company operating the ships meets certain incorporation and ownership requirements. Among other things, in order to qualify for this exemption, the company operating the ships must be incorporated in a country, which grants an equivalent exemption from income taxes to U.S. corporations. All the vessel-owning subsidiaries satisfy these initial criteria.

In addition, these companies must meet an ownership test. The management of Navios Partners believes that this ownership test was satisfied prior to the IPO by virtue of a special rule applicable to situations where the ship operating companies are beneficially owned by a publicly traded company. Although not free from doubt, management also believes that the ownership test will be satisfied based on the trading volume and ownership of Navios Partners' units, but no assurance can be given that this will remain so in the future.

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NOTE 11 – COMMITMENTS AND CONTINGENCIES

Navios Partners is involved in various disputes and arbitration proceedings arising in the ordinary course of business. Provisions have been recognized in the financial statements for all such proceedings where Navios Partners believes that a liability may be probable, and for which the amounts are reasonably estimable, based upon facts known at the date the financial statements were prepared. Management believes the ultimate disposition of these matters will be immaterial individually and in the aggregate to Navios Partners' financial position, results of operations or liquidity.

In November 2017, Navios Partners agreed to charter-in, under a ten-year bareboat contract, from an unrelated third party, the Navios Libra, a newbuilding Panamax vessel of 82,011 dwt, delivered on July 24, 2019. Navios Partners had agreed to pay in total \$5,540, representing a deposit for the option to acquire the vessel after the end of the fourth year, of which the first half amounted to \$2,770 was paid during the year ended December 31, 2017 and the second half amounted to \$2,770 was paid during the year ended December 31, 2018. As of September 30, 2020, the total amount of \$6,650, including refundable upon vessel's redelivery expenses, is presented under the caption "Other long-term assets" in the condensed Consolidated Balance Sheets.

On October 18, 2019, Navios Partners agreed to charter-in two newbuilding Panamax vessels. Each vessel has approximately 81,000 dwt and is being bareboat chartered-in for ten years. Navios Partners has the option to acquire the vessels after the end of the fourth year for the remaining period of the bareboat charter. Navios Partners has agreed to pay in total \$12,328, representing a deposit for the option to acquire the vessels after the end of the fourth year, of which \$1,434 was paid during the year ended December 31, 2019, \$10,034 was paid during the period ended September 30, 2020 and the remaining amount of \$860 will be paid upon the delivery of the vessels. As of September 30, 2020, the total amount of \$11,940, including expenses, is presented under the caption "Other long-term assets" in the condensed Consolidated Balance Sheets. The vessels are expected to be delivered by the first half of 2021.

As of September 30, 2020, the Company's future minimum lease commitments under the Company's charter-in contracts are as follows:

	<u>Amount</u>
2021	\$ 3,391
2022	6,652
2023	6,577
2024	6,544
2025	6,388
2026 and thereafter	31,794
Total	<u>\$61,346</u>

NOTE 12 – TRANSACTIONS WITH RELATED PARTIES AND AFFILIATES

Vessel operating expenses (management fees): Pursuant to the amended management agreement, in each of October 2013, August 2014, February 2015, February 2016 and November 2017 (the "Management Agreement"), the Manager, provided commercial and technical management services to Navios Partners' vessels for a daily fee (excluding drydocking expenses, which were reimbursed at cost by Navios Partners) of: (a) \$4.23 daily rate per Ultra-Handymax vessel; (b) \$4.33 daily rate per Panamax vessel; (c) \$5.25 daily rate per Capesize vessel; (d) \$6.70 daily rate per Containership of TEU 6,800; (e) \$7.40 daily rate per Containership of more than TEU 8,000 and (f) \$8.75 daily rate per very large Containership of more than TEU 13,000 through December 2019. These fixed daily fees cover our vessels' operating expenses, other than certain extraordinary fees and costs.

In August 2019, Navios Partners extended the duration of its Management Agreement with the Manager until January 1, 2025. In addition, management fees are fixed for two years commencing from January 1, 2020 at: (a) \$4.35 daily per Ultra-Handymax Vessel; (b) \$4.45 daily per Panamax Vessel; (c) \$5.41 daily per Capesize Vessel; and (d) \$6.90 daily per 6,800 TEU Containership. The agreement also provides for a technical and commercial management fee of \$0.05 per day per vessel and an annual increase of 3% after January 1, 2022 unless agreed otherwise.

Following the liquidation of Navios Europe I, Navios Partners acquired three Sub-Panamax and two Panamax Containerships. As per the Management Agreement, as amended in December 2019, management fees are fixed for two years commencing from January 1, 2020 at \$6.1 daily per Sub-Panamax/Panamax Containership. The agreement also provides for a technical and commercial management fee of \$0.05 per day per vessel and an annual increase of 3% after January 1, 2022 for the remaining period unless agreed otherwise.

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Drydocking expenses are reimbursed at cost for all vessels.

For the three and nine month periods ended September 30, 2020 certain extraordinary fees and costs related to vessels' regulatory requirements including ballast water treatment system installation and exhaust gas cleaning system installation, under the Company's management agreement amounted to \$867 and \$2,386, respectively, and are presented under the caption "Acquisition of/addition to vessels, net of cash acquired" in the condensed Consolidated Statements of Cash Flow. For the three and nine month periods ended September 30, 2019 certain extraordinary fees and costs related to vessels' regulatory requirements including ballast water treatment system installation and exhaust gas cleaning system installation, under the Company's management agreement amounted to \$5,456 and \$11,223, respectively.

Total vessel operating expenses for each of the three and nine month periods ended September 30, 2020, amounted to \$24,289 and \$68,424, respectively. Total vessel operating expenses for each of the three and nine month periods ended September 30, 2019, amounted to \$16,695 and \$49,801, respectively.

General and administrative expenses: Pursuant to the Administrative Services Agreement, the Manager also provides administrative services to Navios Partners, which include bookkeeping, audit and accounting services, legal and insurance services, administrative and clerical services, banking and financial services, advisory services, client and investor relations and other. The Manager is reimbursed for reasonable costs and expenses incurred in connection with the provision of these services. Navios Partners extended the duration of its existing Administrative Services Agreement with the Manager, until December 31, 2022. In August 2019, Navios Partners extended the duration of its existing administrative services agreement with the Manager until January 1, 2025, which provide for allocable general and administrative costs.

Total general and administrative expenses charged by the Manager for each of the three and nine month periods ended September 30, 2020, amounted to \$3,589 and \$9,994, respectively. Total general and administrative expenses charged by the Manager for each of the three and nine month periods ended September 30, 2019 amounted to \$2,566 and \$7,693, respectively.

Balance due from related parties (excluding Navios Europe II): Balance due from related parties as of September 30, 2020 and December 31, 2019 amounted to \$10,000 and \$25,582, respectively of which for the year ended December 31, 2019, the current receivable was \$11,825 and the long-term receivable was \$13,757. The balance as of September 30, 2020, consisted of the guarantee claim receivable from the Navios Holdings Guarantee of \$10,000.

Balance due to related parties: Balance due to related parties, short-term as of September 30, 2020 and December 31, 2019 amounted to \$40,338 and \$0, respectively, and mainly consisted of payables to the Manager.

Balance due from Navios Europe II: Navios Holdings, Navios Acquisition and Navios Partners have made available to Navios Europe II revolving loans of up to \$43,500 to fund working capital requirements (collectively, the "Navios Revolving Loans II"). In March 2017, the availability under the Navios Revolving Loans II was increased by \$14,000 (see Note 14—Investment in Affiliates).

On April 21, 2020, Navios Europe II agreed with the lender to fully release the liabilities under the junior participating loan facility for \$5,000. Navios Europe II owned seven container vessels and seven dry bulk vessels. Navios Partners had a net receivable of approximately \$17,276 from Navios Europe II.

As of March 31, 2020, the decline in the fair value of the investment was considered as other-than-temporary and, therefore, an aggregate loss of \$6,900 was recognized and included in the accompanying condensed Consolidated Statements of Operations for the nine month period ended September 30, 2020, as "Impairment of receivable in affiliated company". The fair value of the Company's investment was determined based on the liquidation value of Navios Europe II, including the individual fair values assigned to the assets and liabilities of Navios Europe II.

On May 14, 2020, an agreement was reached to liquidate Navios Europe II before its original expiring date. The transaction was completed on June 29, 2020.

As a result of the Europe II Liquidation, Navios Partners acquired 100% of the stock of the five vessels owning Companies owning the dry bulk vessels of Navios Europe II with a fair value of \$56,050 and working capital balances of \$(2,718). The acquisition was funded through a new credit facility (Note 6—Borrowings) and cash on hand for total of \$36,056 and the satisfaction of its receivable balances in the amount of approximately \$17,276 representing the Revolving Loan, Term Loan and accrued interest thereof directly owned to Navios Partners, previously presented under the captions "Amounts due from related parties" and "Loans receivable from affiliates".

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Following the Liquidation of Navios Europe II, there was no balance due from Navios Europe II as of September 30, 2020. As of December 31, 2019, Navios Partners' portion of the outstanding amount relating to the portion of the investment in Navios Europe II (5.0% of the \$14,000) was \$700, under the caption "Investment in affiliates" and the outstanding amount relating to the Navios Revolving Loans II capital was \$15,397, under the caption "Loans receivable from affiliates". The accrued interest income earned under the Navios Revolving Loans II was \$7,284 under the caption "Amounts due from related parties" and the accrued interest income earned under the Navios Term Loans II was \$796 under the caption "Loans receivable from affiliates".

Note receivable from affiliates: On March 17, 2017, Navios Holdings transferred to Navios Partners its rights to the fixed 12.7% interest on the Navios Europe I Navios Term Loans I and Navios Revolving Loans I (including the respective accrued receivable interest) in the amount of \$33,473, which included a cash consideration of \$4,050 and 871,795 newly issued common units of Navios Partners, on a split adjusted basis. At the date of this transaction, the Company recognized a receivable at the fair value of its newly issued common units totaling \$29,423 based on the closing price of \$33.75 per unit as of March 16, 2017 given as consideration. The receivable relating to the consideration settled with the issuance of 871,795 Navios Partners' common units in the amount of \$29,423 has been classified contra equity. The receivable from Navios Holdings was payable on maturity in December 2023. Interest would accrue through maturity and would be recognized within "Interest income" for the receivable relating to the cash consideration of \$4,050. On October 23, 2019, Navios Partners' Conflicts Committee agreed to cancel an amortizing penalty from Navios Holdings of approximately \$3,182 as of December 2019, due to early liquidation of the structure. Following the liquidation of Navios Europe I, the long-term note receivable from Navios Holdings amounted to \$0.

Others: Navios Partners has entered into an omnibus agreement with Navios Holdings (the "Partners Omnibus Agreement") in connection with the closing of Navios Partners' IPO governing, among other things, when Navios Holdings and Navios Partners may compete against each other as well as rights of first offer on certain drybulk carriers. Pursuant to the Partners Omnibus Agreement, Navios Partners generally agreed not to acquire or own Panamax or Capesize drybulk carriers under time charters of three or more years without the consent of an independent committee of Navios Partners. In addition, Navios Holdings has agreed to offer to Navios Partners the opportunity to purchase vessels from Navios Holdings when such vessels are fixed under time charters of three or more years.

Navios Partners entered into an omnibus agreement with Navios Acquisition and Navios Holdings (the "Acquisition Omnibus Agreement") in connection with the closing of Navios Acquisition's initial vessel acquisition, pursuant to which, among other things, Navios Holdings and Navios Partners agreed not to acquire, charter-in or own liquid shipment vessels, except for containerships and vessels that are primarily employed in operations in South America, without the consent of an independent committee of Navios Acquisition. In addition, Navios Acquisition, under the Acquisition Omnibus Agreement, agreed to cause its subsidiaries not to acquire, own, operate or charter drybulk carriers subject to specific exceptions. Under the Acquisition Omnibus Agreement, Navios Acquisition and its subsidiaries granted to Navios Holdings and Navios Partners, a right of first offer on any proposed sale, transfer or other disposition of any of its drybulk carriers and related charters owned or acquired by Navios Acquisition. Likewise, Navios Holdings and Navios Partners agreed to grant a similar right of first offer to Navios Acquisition for any liquid shipment vessels it might own. These rights of first offer will not apply to a (i) sale, transfer or other disposition of vessels between any affiliated subsidiaries, or pursuant to the terms of any charter or other agreement with a counterparty, or (ii) merger with or into, or sale of substantially all of the assets to, an unaffiliated third party.

In connection with the Navios Maritime Midstream Partners L.P. ("Navios Midstream") initial public offering effective November 18, 2014, Navios Partners entered into an omnibus agreement with Navios Midstream, Navios Acquisition and Navios Holdings pursuant to which Navios Acquisition, Navios Holdings and Navios Partners have agreed not to acquire or own any VLCCs, crude oil tankers, refined petroleum product tankers, LPG tankers or chemical tankers under time charters of five or more years and also providing rights of first offer on certain tanker vessels.

In connection with the Navios Containers private placement and listing on the Norwegian over-the-counter market effective June 8, 2017, Navios Partners entered into an omnibus agreement with Navios Containers, Navios Holdings, Navios Acquisition and Navios Midstream (the "Navios Containers Omnibus Agreement"), pursuant to which Navios Partners, Navios Holdings, Navios Acquisition and Navios Midstream have granted to Navios Containers a right of first refusal over any containerships to be sold or acquired in the future. The omnibus agreement contains significant exceptions that will allow Navios Partners, Navios Holdings, Navios Acquisition and Navios Midstream to compete with Navios Containers under specified circumstances.

Navios Holdings Guarantee: On November 15, 2012 (as amended and supplemented in March 2014, December 2017 and July 2019), Navios Holdings and Navios Partners entered into an agreement (the "Navios Holdings Guarantee") by which Navios Holdings would provide supplemental credit default insurance with a maximum cash payment of \$20,000. As of September 30, 2020, the outstanding claim receivable amounted to \$10,000. The final settlement of the amount from Navios Holdings will take place at specific dates, in accordance with a signed letter of agreement between the parties. The guarantee claim receivable is presented under the caption "Amounts due from related parties-short term" in the condensed Consolidated Balance Sheets as of September 30, 2020.

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General partner: In August 2019, Navios Holdings announced that it sold certain assets, including its ship management division and the general partnership interest in Navios Partners to N Shipmanagement Acquisition Corp. and related entities, affiliated with Navios Holdings' Chairman and Chief Executive Officer, Angeliki Frangou.

Acquisition of vessels: On September 30, 2020, Navios Partners acquired the Navios Gem, a 2014-built Capesize vessel of 181,336 dwt and the Navios Victory, a 2014-built Panamax vessel of 77,095 dwt, from its affiliate, Navios Holdings, for a purchase price of \$51,000, including working capital balances of \$(4,378). The acquisition was funded through a new credit facility of \$33,000 (see Note 6—Borrowings) and the balance of \$13,622 as a seller's credit by Navios Holdings presented under the caption "Payable to affiliated companies" in the condensed Consolidated Balance Sheets as of September 30, 2020. On October 2, 2020, Navios Partners paid to Navios Holdings the balance of \$13,622.

On November 26, 2019, Navios Partners entered into a share purchase agreement for the acquisition of five containerships, following the liquidation of Navios Europe I. The vessels were acquired on December 13, 2019 (see Note 4—Vessels, net).

On November 25, 2019, Navios Partners entered into a share purchase agreement for the acquisition of three Panamax and one Ultra-Handymax drybulk vessels from an entity affiliated with its Chairman and CEO for \$37,000 (plus working capital adjustment) in a transaction approved by the Conflicts Committee of the Board of Directors of Navios Partners. The vessels were acquired on December 13, 2019 (see Note 4—Vessels, net).

As of September 30, 2020, Navios Holdings held an 18.4% common unit interest in Navios Partners, represented by 2,070,216 common units. The General Partner held a general partner interest of 2.1% represented by 236,070 general partner units.

NOTE 13 – NOTES RECEIVABLE

On July 15, 2016, the Company entered into a charter restructuring agreement for the reduction of the hire rate for five Containerships chartered out to Hyundai Merchant Marine Co. ("HMM") which resulted in a decrease in cash charter hire to be received of approximately \$38,461. More specifically, the reduction of the hire rate will be applied as follows:

- With effect from (and including) July 18, 2016 until (and including) December 31, 2019, hire rate shall be reduced to \$24,400 per day pro rata.
- With effect from (and including) January 1, 2020, hire rate shall be restored to the rate of \$30,500 per day pro rata until redelivery.

In exchange for the reduction of the hire rate, the Company received (i) \$7,692 on principal amount of senior, unsecured notes, amortizing subject to available cash flows, accruing interest at 3% per annum payable on maturity in July 2024 and (ii) 3,657 freely tradable securities of HMM (publicly traded at the Stock Market Division of the Korean Exchange).

On July 18, 2016, the Company recognized the fair value of the HMM securities totaling \$40,277 and also recognized the fair value of the senior unsecured notes totaling \$6,074. The total fair value of the non-cash compensation received was recognized as deferred revenue, which will be amortized over the remaining duration of each time charter. The Company recognized non-cash interest income and discount unwinding totaling to \$342 and \$357, respectively, for these instruments under the caption "Interest income" in the condensed Consolidated Statements of Operations for each of the nine month periods ended September 30, 2020 and 2019, respectively. As of September 30, 2020 and December 31, 2019, the outstanding balance of the notes receivable, including accrued interest and discount unwinding, amounted to \$7,896 and \$7,554, respectively, presented under the caption "Notes receivable, net of current portion" in the condensed Consolidated Balance Sheets.

For the nine month periods ended September 30, 2020 and 2019, the Company recorded an amount of \$846 and \$9,113, respectively, of deferred revenue amortization in the condensed Consolidated Statements of Operations, included under the caption "Time charter and voyage revenues".

As of September 30, 2020, the outstanding balances of the current and non-current portion of deferred revenue in relation to HMM amounted to \$1,127 and \$2,469, respectively. As of December 31, 2019, the outstanding balances of the current and non-current portion of deferred revenue in relation to HMM amounted to \$1,130 and \$3,312, respectively.

On January 12, 2017, the Company sold the vessel the MSC Cristina for a gross sale price of \$126,000 and received a cash payment of \$107,250 and a note receivable of \$18,750 accruing interest at 6% per annum payable in 16 quarterly instalments. As of September 30, 2020, the outstanding balance of the current and non-current note receivable amounted to \$1,172 and \$0, respectively. For each of the nine month periods ended September 30, 2020 and 2019, the Company recorded interest income of \$132 and \$345, respectively, including accrued interest income of \$9 and \$48, respectively, under the caption "Interest income" in the condensed Consolidated Statements of Operations.

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NOTE 14 – INVESTMENT IN AFFILIATES

Navios Europe I: On October 9, 2013, Navios Holdings, Navios Acquisition and Navios Partners established Navios Europe I and had ownership interests of 47.5%, 47.5% and 5.0%, respectively. On December 18, 2013, Navios Europe I acquired ten vessels for aggregate consideration consisting of: (i) cash which was funded with the proceeds of senior loan facilities (the “Senior Loans I”) and loans aggregating \$10,000 from Navios Holdings, Navios Acquisition and Navios Partners (collectively, the “Navios Term Loans I”) and (ii) the assumption of a junior participating loan facility (the “Junior Loan I”). In addition to the Navios Term Loans I, Navios Holdings, Navios Acquisition and Navios Partners have made available to Navios Europe I revolving loans of up to \$24,100 to fund working capital requirements (collectively, the “Navios Revolving Loans I”). In December 2018, the availability under the Revolving Loans I was increased by \$30,000.

Following the liquidation of Navios Europe I, Navios Partners acquired five vessel owning companies for a fair value of \$56,083 in total.

Navios Europe II: On February 18, 2015, Navios Holdings, Navios Acquisition and Navios Partners established Navios Europe II and have ownership interests of 47.5%, 47.5% and 5.0%, respectively. From June 8, 2015 through December 31, 2015, Navios Europe II acquired fourteen vessels for aggregate consideration consisting of: (i) cash consideration of \$145,550 (which was funded with the proceeds of a \$131,550 senior loan facilities net of loan discount amounting to \$3,375 (the “Senior Loans II”) and loans aggregating \$14,000 from Navios Holdings, Navios Acquisition and Navios Partners (collectively, the “Navios Term Loans II”); and (ii) the assumption of a junior participating loan facility (the “Junior Loan II”) with a face amount of \$182,150 and fair value of \$99,147, at the acquisition date. In addition to the Navios Term Loans II, Navios Holdings, Navios Acquisition and Navios Partners have also made available to Navios Europe II revolving loans up to \$43,500 to fund working capital requirements (collectively, the “Navios Revolving Loans II”). In March 2017, the amount of funds available under the Navios Revolving Loans II was increased by \$14,000.

Following the Liquidation of Navios Europe II, Navios Partners acquired five vessel owning companies for a fair value of \$56,050 in total.

As of September 30, 2020 and subsequent to the Liquidation of Navios Europe II, the Company had no exposure. As of December 31, 2019, the estimated maximum potential loss by Navios Partners in Navios Europe II would have been \$16,097, excluding accrued interest, which represented the Company’s carrying value of the investment of \$700 as of December 31, 2019 plus the Company’s balance of the Navios Revolving Loans II of \$15,397 as of December 31, 2019, excluding accrued interest, and does not include the undrawn portion of the Navios Revolving Loans II.

Navios Containers: On June 8, 2017, Navios Containers closed its private placement and issued 10,057,645 shares for \$50,288 of gross proceeds at a subscription price of \$5.00 per share. Navios Partners invested \$30,000 and received 6,000,000 shares, and Navios Holdings invested \$5,000 and received 1,000,000 shares. Each of Navios Partners and Navios Holdings also received warrants, with a five-year term, for 6.8% and 1.7% of the equity, respectively. On August 29, 2017, Navios Containers closed its private placement and issued 10,000,000 shares for \$50,000 of gross proceeds at a subscription price of \$5.00 per share. Navios Partners invested \$10,000 and received 2,000,000 shares. Navios Partners also received warrants, with a five-year term, for 6.8% of the equity. On November 9, 2017, Navios Containers closed a private placement of 9,090,909 shares at a subscription price of \$5.50 per share, resulting in gross proceeds of approximately \$50,000. Navios Partners invested \$10,000 and received 1,818,182 shares. Navios Partners also received warrants, with a five-year term, for 6.8% of the newly issued equity. On March 13, 2018, Navios Containers closed a private placement of 5,454,546 shares at a subscription price of \$5.50 per share, resulting in gross proceeds of approximately \$30,000. Navios Partners invested \$14,460 and received 2,629,095 shares and Navios Holdings invested \$500 and received 90,909 shares. Each of Navios Partners and Navios Holdings also received 9,273 warrants, with a five-year term.

On December 3, 2018, Navios Partners distributed 855,001 units of Navios Containers to the unitholders of Navios Partners, approximately 2.5% of the Navios Containers’ outstanding equity. In connection with this transaction, Navios Partners recognized an OTTI impairment of \$560 on the units distributed. The amount of the distribution was \$4,243 based on the last trading price of Navios Containers’ shares in the N-OTC market as of November 23, 2018. Following the distribution, Navios Partners owned approximately 33.5% of the equity in Navios Containers.

As of each of September 30, 2020 and December 31, 2019, Navios Partners held 11,592,276 common units, representing an ownership interest in Navios Containers of 35.7% and 33.5% respectively. Investment income of \$586 and \$1,549 was recognized in the condensed Consolidated Statements of Operations under the caption of “Equity in net earnings of affiliated companies” for each of the nine month periods ended September 30, 2020 and 2019, respectively.

Based on the Company’s evaluation of the duration and magnitude of the fair value decline for approximately twelve months as of December 31, 2019, the Company concluded that the decline in the fair value of its investment below its carrying value was not temporary. Thus, an OTTI loss of \$42,603 was recognized as of December 31, 2019, being the difference between the fair value of \$24,923 and the carrying value of the investment of \$67,526.

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The fair value of Navios Partners' equity investment in Navios Containers is based on unadjusted quoted prices in active markets for Navios Containers' common units. The fair value of Navios Partners' equity investment in Navios Containers as at September 30, 2020 and December 31, 2019 was \$12,021 and \$24,923, respectively, compared with its carrying value of \$25,611 and \$24,923, respectively. Based on Navios Partners' evaluation of the duration and magnitude of the fair value decline, Navios Containers' financial condition and near-term prospects, and Navios Partners' intent and ability to hold its investment in Navios Containers until recovery, Navios Partners concluded that the decline in fair value of its investment in Navios Containers below its carrying value is temporary and, therefore, no impairment was recorded.

NOTE 15 – CASH DISTRIBUTIONS AND EARNINGS PER UNIT

There is no guarantee that Navios Partners will pay a quarterly distribution on the common and general partner units in any quarter. On February 3, 2016, Navios Partners announced that its Board of Directors decided to suspend the quarterly cash distributions to its unitholders, including the distribution for the quarter ended December 31, 2015. In March 2018, the board determined to reinstate a distribution and any continued distribution will be at the discretion of our Board of Directors, taking into consideration the terms of its partnership agreement. The Company is prohibited from making any distributions to unitholders if it would cause an event of default, or an event of default exists, under its existing credit facilities.

There is incentive distribution rights held by the General Partner, which are analyzed as follows:

	Total Quarterly Distribution Target Amount	Marginal Percentage Interest in Distributions		
		Common Unitholders	Incentive Distribution Right Holder	General Partner
Minimum Quarterly Distribution	up to \$5.25	98%	—	2%
First Target Distribution	up to \$6.0375	98%	—	2%
Second Target Distribution	above \$ 6.0375 up to \$6.5625	85%	13%	2%
Third Target Distribution	above \$6.5625 up to \$7.875	75%	23%	2%
Thereafter	above \$7.875	50%	48%	2%

The first 98% of the quarterly distribution is paid to all common unitholders. The incentive distributions rights (held by the General Partner) apply only after a minimum quarterly distribution of \$6.0375.

In January 2019, the Board of Directors of Navios Partners authorized its quarterly cash distribution for the three month period ended December 31, 2018 of \$0.30 per unit. The distribution was paid on February 14, 2019 to all unitholders of common and general partner units of record as of February 11, 2019, which included the unitholders of restricted common units issued on February 1, 2019. The aggregate amount of the declared distribution was \$3,458.

In April 2019, the Board of Directors of Navios Partners authorized its quarterly cash distribution for the three month period ended March 31, 2019 of \$0.30 per unit. The distribution was paid on May 14, 2019 to all unitholders of common and general partner units of record as of May 10, 2019. The aggregate amount of the declared distribution was \$3,364.

In July 2019, the Board of Directors of Navios Partners authorized its quarterly cash distribution for the three month period ended June 30, 2019 of \$0.30 per unit. The distribution was paid on August 9, 2019 to all unitholders of common and general partner units of record as of August 6, 2019. The aggregate amount of the declared distribution was \$3,364.

In October 2019, the Board of Directors of Navios Partners authorized its quarterly cash distribution for the three month period ended September 30, 2019 of \$0.30 per unit. The distribution was paid on November 14, 2019 to all unitholders of common and general partner units of record as of November 7, 2019. The aggregate amount of the declared distribution was \$3,364.

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UNAUDITED CONDENSED NOTES TO THE CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
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In January 2020, the Board of Directors of Navios Partners authorized its quarterly cash distribution for the three month period ended December 31, 2019 of \$0.30 per unit. The distribution was paid on February 13, 2020 to all unitholders of common units and general partner units of record as of February 11, 2020. The aggregate amount of the declared distribution was \$3,365.

In April 2020, the Board of Directors of Navios Partners authorized its quarterly cash distribution for the three month period ended March 31, 2020 of \$0.30 per unit. The distribution was paid on May 14, 2020 to all unitholders of common units and general partner units of record as of May 11, 2020. The aggregate amount of the declared distribution was \$3,366.

In July 2020, the Board of Directors of Navios Partners authorized its quarterly cash distribution for the three month period ended June 30, 2020 of \$0.05 per unit. The distribution was paid on August 13, 2020 to all unitholders of common units and general partner units of record as of August 10, 2020. The aggregate amount of the declared distribution was \$562.

In October 2020, the Board of Directors of Navios Partners authorized its quarterly cash distribution for the three month period ended September 30, 2020 of \$0.05 per unit. The distribution was paid on November 13, 2020 to all unitholders of common units and general partner units of record as of November 9, 2020. The aggregate amount of the declared distribution was \$579.

Navios Partners calculates earnings per unit by allocating reported net income for each period to each class of units based on the distribution waterfall for available cash specified in Navios Partners' partnership agreement, net of the unallocated earnings (or losses). Basic earnings/(losses) per unit is determined by dividing net income/(loss) attributable to Navios Partners common unitholders by the weighted average number of common units outstanding during the period. Diluted earnings per unit is calculated in the same manner as basic earnings per unit, except that the weighted average number of outstanding units increased to include the dilutive effect of outstanding unit options or phantom units. Net loss per unit undistributed is determined by taking the distributions in excess of net income and allocating between common units and general partner units on a 98%-2% basis. There were no options or phantom units outstanding during each of the nine month periods ended September 30, 2020 and 2019.

The calculations of the basic and diluted earnings per unit are presented below.

	Three Month Period Ended		Nine Month Period Ended	
	September 30, 2020	September 30, 2019	September 30, 2020	September 30, 2019
Net income/ (loss)	\$ 6,991	\$ 16,859	\$ (18,374)	\$ 813
Income/ (loss) attributable to:				
Common unit holders	6,851	16,520	(18,009)	791
Weighted average units outstanding (basic and diluted)				
Common unit holders	10,962,394	10,751,969	10,885,350	10,849,224
Earnings/ (loss) per unit (basic and diluted):				
Common unit holders	\$ 0.63	\$ 1.54	\$ (1.65)	\$ 0.07
Earnings/ (loss) per unit — distributed (basic and diluted):				
Common unit holders	\$ 0.05	\$ 0.31	\$ 0.41	\$ 0.91
Earnings/ (loss) — undistributed (basic and diluted):				
Common unit holders	\$ 0.57	\$ 1.23	\$ (2.06)	\$ (0.84)

Potential common units of 140,191 and 235,671 relating to unvested restricted common units for each of the three and nine month periods ended September 30, 2020 and 2019, respectively, have an anti-dilutive effect (i.e. those that increase income per unit or decrease loss per unit) and are therefore excluded from the calculation of diluted earnings per unit.

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NOTE 16 – OTHER EXPENSE

As of September 30, 2019, the amount of \$3,638 related to the change in estimated guarantee claim receivable is included under the caption “Other expense” in the condensed Consolidated Statements of Operations.

NOTE 17 – LEASES

Effective January 1, 2018 the Company elected to early adopt the requirements of Accounting Standard Update (“ASU”) 2016-02, “Leases (Topic 842)”. Under the new lease standard, lessees are required to recognize a right-of-use asset and a lease liability for substantially all leases. The new lease standard continues to classify leases as either financing or operating, with classification affecting the pattern of expense recognition. The accounting applied by a lessor under the new guidance is substantially equivalent to the previous lease accounting guidance.

The following are the type of contracts that fall under ASC 842:

Time charter out contracts and pooling arrangements

The Company’s contract revenues from time chartering and pooling arrangements are governed by ASC 842. Upon adoption of ASC 842, the timing and recognition of earnings from the time charter contracts and pool arrangements to which the Company is party did not change from previous practice. For further analysis, refer to Note 2 - Summary of significant Accounting Policies.

Bareboat charter-in contract

On July 24, 2019, Navios Partners took delivery of the Navios Libra, a 2019-built Panamax vessel of 82,011 dwt, for a 10-year bareboat charter-in agreement. The bareboat charter-in provides for purchase options with de-escalating purchase prices starting on the end of the fourth year and an average daily rate of \$6. The Company has performed an assessment considering the lease classification criteria under ASC 842 and concluded that the arrangement is an operating lease. Consequently, the Company has recognized an operating lease liability based on the net present value of the remaining charter-in payments and a right-of-use asset at an amount equal to the operating liability adjusted for the carrying amount of the straight-line liability.

Based on management estimates and market conditions, the lease term of this lease is being assessed at each balance sheet date. At lease commencement, the Company determines a discount rate to calculate the present value of the lease payments so that it can determine lease classification and measure the lease liability. In determining the discount rate to be used at lease commencement, the Company used its incremental borrowing rate as there was no implicit rate included in charter-in contracts that can be readily determinable. The incremental borrowing rate is the rate that reflects the interest a lessee would have to pay to borrow funds on a collateralized basis over a similar term and in a similar economic environment. The Company then applied the respective incremental borrowing rate based on the remaining lease term of the specific lease. As of July 24, 2019, Navios Partners’ incremental borrowing rate was approximately 7%.

As of September 30, 2020 and December 31, 2019 the unamortized balance of the lease liability amounted \$13,429 and \$14,201, respectively, and is presented under the captions “Operating lease liabilities, current and non-current portion” in the condensed Consolidated Balance Sheets. Right of use asset amounted \$13,538 and \$14,241 as at September 30, 2020 and December 31, 2019, respectively, and is presented under the caption “Operating lease assets” in the condensed Consolidated Balance Sheets.

The Company recognizes the lease payments for its operating leases as charter hire expense in the condensed Consolidated Statements of Operations on a straight-line basis over the lease term. Lease expense for each of the three and nine month periods ended September 30, 2020 amounted to \$547 and \$1,630, respectively, in comparison to \$410 for each of the corresponding periods ended September 30, 2019 and is included in the condensed Consolidated Statements of Operations under the caption “Time charter and voyage expenses”.

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The table below provides the total amount of lease payments on an undiscounted basis on our chartered-in contracts as of September 30, 2020:

	Charter-in vessel in operation
September 30, 2021	\$ 2,172
September 30, 2022	2,155
September 30, 2023	2,081
September 30, 2024	2,086
September 30, 2025	2,081
September 30, 2026 and thereafter	7,666
Total	\$ 18,241
Operating lease liabilities, including current portion	\$ 13,429
Discount based on incremental borrowing rate	\$ 4,812

Sale and Lease Back Agreements

During 2019 and 2018 the Company has entered into sale and leaseback agreements with unrelated third parties for five vessels of the Company's fleet. Navios Partners has purchase obligations to acquire the vessels at the end of the lease terms, consequently under ASC 842-40 the transfers of the vessels were determined to be failed sales and were treated as financing transactions. The vessels were not derecognized and continue to be depreciated over their respective useful lives, and tested for impairment as per Company's policy (see Note 6—Borrowings).

NOTE 18 – SUBSEQUENT EVENTS

On November 16, 2020, Navios Partners submitted a proposal to the board of directors of Navios Maritime Containers L.P. ("Navios Containers") to acquire the outstanding common units of Navios Containers not already owned by Navios Partners. Navios Partners proposed to issue in a merger transaction 0.37 of a common unit of Navios Partners for each outstanding common unit of Navios Containers.

The proposed transaction is subject, amongst others, to the negotiation and execution of a definitive agreement, approval of the Board of Directors of Navios Partners and the necessary approvals under Navios Containers' limited partnership agreement. The consummation of the proposed transaction would be subject to customary closing conditions. There can be no assurance that any such approvals will be forthcoming, that a definitive agreement will be executed, or that any transaction will be consummated.

In October 2020, the Board of Directors of Navios Partners declared a cash distribution for the second quarter of 2020 of \$0.05 per unit. The cash distribution was paid on November 13, 2020 to all unitholders of common units and general partner units of record as of November 9, 2020. The declaration and payment of any further dividends remain subject to the discretion of the Board of Directors and will depend on, among other things, Navios Partners' cash requirements as measured by market opportunities and restrictions under its credit agreements and other debt obligations and such other factors as the Board of Directors may deem advisable.

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SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this Report to be signed on its behalf by the undersigned, thereunto duly authorized.

NAVIOS MARITIME PARTNERS L.P.

By: /s/ Angeliki Frangou
Angeliki Frangou
Chief Executive Officer

Date: November 18, 2020

DATED 25 June 2020

**CRONUS SHIPPING CORPORATION
DIONYSUS SHIPPING CORPORATION
OCEANUS SHIPPING CORPORATION
AND
PROMETHEUS SHIPPING CORPORATION
as Borrowers**

-and-

**HELLENIC BANK PUBLIC COMPANY LIMITED
as Lender**

-and-

**HELLENIC BANK PUBLIC COMPANY LIMITED
as Arranger, Agent, Account Bank
and Security Trustee**

**FACILITY AGREEMENT FOR
A TERM LOAN FACILITY
OF UP TO USD17,000,000**

Ince

PIRAEUS

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THIS AGREEMENT dated 25 June 2020 is made **BY** and **BETWEEN**:

- (1) **CRONUS SHIPPING CORPORATION, DIONYSUS SHIPPING CORPORATION, OCEANUS SHIPPING CORPORATION and PROMETHEUS SHIPPING CORPORATION** as Borrowers;
- (2) **HELLENIC BANK PUBLIC COMPANY LIMITED** as Lenders; and
- (3) **HELLENIC BANK PUBLIC COMPANY LIMITED** as Arranger, Account Bank, Agent and Security Trustee.

NOW IT IS HEREBY AGREED AS FOLLOWS:

1 PURPOSE, DEFINITIONS, CONSTRUCTIONS & MAJORITY LENDERS

1.1 Purpose

This Agreement sets out the terms and conditions on which the Lenders agree to make available to the Borrowers a loan of up to seventeen million Dollars (USD17,000,000), subject to clause 2 of this Agreement, in four Advances to be drawn down simultaneously for the purpose of enabling the partial prepayment of the amount outstanding under the Existing Loan Agreement.

1.2 Definitions

In this Agreement, unless the context otherwise requires:

“**Account Bank**” means Hellenic Bank Public Company Limited, a company incorporated in Cyprus acting for the purposes of this Agreement through its office at Corner Limassol Avenue & 200 Athalassa Avenue, 2025 Strovolos, Nicosia, Cyprus, or such other bank as may be designated by the Agent as an Account Bank for the purposes of this Agreement;

“**Accounts Pledge**” means a first priority pledge required to be executed hereunder between the Borrowers and the Security Trustee in respect of the Earnings Accounts, the Liquidity Account and the Retention Account in such form as the Agent may require in its sole discretion;

“**Advance**” means the principal amount of each of Advance A, Advance B, Advance C and Advance D and in the plural means all of them;

“**Advance A**” means the principal amount of up to USD4,472,100, to be made available by the Lenders to the Borrowers subject to clause 2 of this Agreement for the purpose described in clause 1.1 or, as the context requires, the amount thereof outstanding from time to time;

“**Advance B**” means the principal amount of up to USD4,507,400, to be made available by the Lenders to the Borrowers subject to clause 2 of this Agreement for the purpose described in clause 1.1 or, as the context requires, the amount thereof outstanding from time to time;

“**Advance C**” means the principal amount of up to USD4,096,400, to be made available by the Lenders to the Borrowers subject to clause 2 of this Agreement for the purpose described in clause 1.1 or, as the context requires, the amount thereof outstanding from time to time;

“**Advance D**” means the principal amount of up to USD3,924,100, to be made available by the Lenders to the Borrowers subject to clause 2 of this Agreement for the purpose described in clause 1.1 or, as the context requires, the amount thereof outstanding from time to time;

“**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 and for this purpose “control” means the ownership of more than fifty per cent (50%) of the voting share capital (or equivalent rights of ownership) of such company or entity.

“**Agent**” means Hellenic Bank Public Company Limited, a company incorporated in Cyprus acting for the purposes of this Agreement through its office at Corner Limassol Avenue & 200 Athalassa Avenue, 2025 Strovolos, Nicosia, Cyprus (or of such other address as may last have been notified to the other parties to this Agreement pursuant to clause 17.2.3) or such other person as may be appointed as agent by the Lenders pursuant to clause 16.13;

“**Anti-Corruption Laws**” means the UK Bribery Act 2010, the United States Foreign Corrupt Practices Act of 1977 (each as amended from time to time) and any similar legislation in other jurisdictions;

“**Approved Broker**” means each of Barry Rogliano Salles, Clarkson Valuations Limited, Howe Robinson, Intermodal, Kontiki Shipbrokers, Maersk Broker K/S, or such other reputable, independent and first class firm of shipbrokers specialising in the valuation of vessels of the relevant type appointed by the Agent in its sole discretion;

“**Arranger**” means Hellenic Bank Public Company Limited, a company incorporated in Cyprus acting for the purposes of this Agreement through its office at Corner Limassol Avenue & 200 Athalassa Avenue, 2025 Strovolos, Nicosia, Cyprus (or of such other address as may last have been notified to the other parties to this Agreement pursuant to clause 17.2.3);

“**Article 55 BRRD**” means Articles 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investments firms

“**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 other 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**” means, in relation to each Advance, the repayment instalment referred to as the “balloon instalment” in clause 4.1;

“**Banking Day**” means a day on which dealings in deposits in USD are carried on in the London Interbank Eurocurrency Market and (other than Saturday or Sunday) on which banks are open for business in London, Piraeus, Nicosia and New York City (or any other relevant place of payment under clause 6);

“**Banks**” means, together, the Arranger, the Agent, the Security Trustee, the Account Bank, the Lenders and any Transferee Lenders;

“**Basel III**” means:

- (a) the following documents published by the Basel Committee on Banking Supervision relating to “Basel III” in December 2010:
 - (i) “Basel III: A global regulatory framework for more resilient banks and banking systems”; and
 - (ii) “Basel III: International framework for liquidity risk measurement, standards and monitoring”; and
 - (iii) “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, in each case including CRD IV and CRR and any follow-up agreement, guidance, standards or paper published by the Basel Committee on Banking Supervision relating to “Basel III”;

“**Basel IV**” means any amendment, replacement or refinement of Basel III known or to be known as “Basel IV”;

“**Borrowed Money**” means Indebtedness in respect of (i) money borrowed and debit balances at banks, (ii) any bond, note, loan stock, debenture or similar debt instrument, (iii) acceptance or documentary credit facilities, (iv) receivables sold or discounted (otherwise than on a non-recourse basis), (v) deferred payments for assets or services acquired, (vi) finance leases and hire purchase contracts, (vii) swaps, forward exchange contracts, futures and other derivatives, (viii) any other transaction (including without limitation forward sale or purchase agreements) having the commercial effect of a borrowing or of any of (ii) to (vii) above and (ix) guarantees in respect of Indebtedness of any person falling within any of (i) to (viii) above;

“**Borrower**” means each of Cronus Shipping Corporation (“**Cronus**”), Dionysus Shipping Corporation (“**Dionysus**”), Oceanus Shipping Corporation (“**Oceanus**”) and Prometheus Shipping Corporation (“**Prometheus**”), each having its registered office at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands, MH96960 and in the plural means all of them;

“**Break Costs**” means the aggregate amount of all losses, premiums, penalties, costs and expenses whatsoever certified by the Agent at any time and from time to time as having been incurred by the Lenders or any of them in maintaining or funding their Contributions or in liquidating or re-employing fixed deposits acquired to maintain the same as a result of either:

- (a) any repayment or prepayment of the Loan or any part thereof otherwise than (i) in accordance with clause 4.1 or (ii) on an Interest Payment Date whether on a voluntary or involuntary basis or otherwise howsoever; or
- (b) as a result of the Borrowers failing or being incapable of drawing an Advance after the Drawdown Notice has been given;

“**Casualty Amount**” means five hundred thousand Dollars (USD 500,000) (or the equivalent in any other currency);

“**Certified Copy**” means in relation to any document delivered or issued by or on behalf of any company, a copy of such document certified as a true, complete and up to date copy of the original by any of the directors or officers for the time being of such company or by such company’s attorneys or solicitors;

“**Charter Assignment**” means a specific assignment of any Extended Employment Contract required to be executed hereunder by any Owner in favour of the Security Trustee (including any notices and/or acknowledgements and/or undertakings associated therewith) in such form as the Agent and the Majority Lenders may require in their sole discretion;

“**Classification**” means, in relation to each Vessel, the highest class available for a vessel of her type with the relevant Classification Society;

“**Classification Society**” means, in relation to each Vessel, any IACS classification society which the Lenders shall, at the request of the Borrowers, have agreed in writing shall be treated as the classification society in relation to such Vessel for the purposes of the relevant Ship Security Documents;

“**Code**” means the US Internal Revenue Code of 1986, as amended, and the regulations promulgated and rulings issued thereunder;

“**Commitment**” means, with respect to each Lender, the amount set out opposite the name of such Lender in schedule 1 (or its successor pursuant to the terms of any relevant Transfer Certificate executed pursuant to the terms of this Agreement) that such Lender has agreed to advance to the Borrowers hereunder in respect of the Loan, in each case as such amount may have been reduced and/or cancelled by any relevant term of this Agreement;

“**Compliance Certificate**” means a certificate substantially in the form set out in schedule 6 signed by the chief financial officer of the Corporate Guarantor evidencing (as the case may be) compliance by the Corporate Guarantor with the provisions of clause 8.1.16 (*Financial Covenants of the Group*);

“**Contribution**” means, at any relevant time, in relation to each Lender, the principal amount of the Loan owing to such Lender at such time;

“**Corporate Guarantee**” means the guarantee required to be executed hereunder by the Corporate Guarantor in such form as the Agent and the Majority Lenders may require in their sole discretion;

“**Corporate Guarantor**” means Navios Maritime Partners L.P., a limited partnership established in the Marshall Islands and having its registered office at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands, MH96960;

“**CRD IV**” means the directive 2013/36/EU of the European Union on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms;

“**CRR**” means the regulation 585/2013/EU of the European Union on prudential requirements for credit institutions and investment firms;

“**Default**” means any Event of Default or any event or circumstance which with the giving of notice or lapse of time or the satisfaction of any other condition (or any combination thereof) would constitute an Event of Default;

“**Dollars**” and “**USD**” mean the lawful currency of the USA and in respect of all payments to be made under any of the Security Documents means funds which are for same day settlement in the New York Clearing House Interbank Payments System (or such other US dollar funds as may at the relevant time be customary for the settlement of international banking transactions denominated in US dollars);

“**Drawdown Date**” means, in relation to each Advance, any date being a Banking Day falling during the Drawdown Period, on which the relevant Advance is, or is to be, made simultaneously available;

“**Drawdown Notice**” means, in relation to each Advance, the notice substantially in the form of schedule 2;

“**Drawdown Period**” means the period commencing on the Execution Date and ending on the earliest of (a) 31 July 2020 and (b) any date on which (i) the amount of the Loan has been made available in full to the Borrowers by the Lenders in accordance with the provisions of clause 2 or (ii) the Total Commitment is reduced to zero pursuant to clauses 2.7, 10.2 or 12;

“**Earnings**” means, in respect of a Vessel, all moneys whatsoever from time to time due or payable to the relevant Owner during the Facility Period arising out of the use or operation of such Vessel including (but without limiting the generality of the foregoing) all freight, hire and passage moneys, income arising under pooling arrangements, compensation payable to the relevant Owner in event of requisition of such Vessel for hire, 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 (including any contract of affreightment) for the employment of such Vessel;

“**Earnings Account**” means, in respect of each Borrower, an interest bearing USD Account required to be opened hereunder with the Account Bank in the name of that Borrower designated “[NAME OF BORROWER] - Earnings Account” and includes any other account designated in writing by the Agent to be an Earnings Account for the purposes of this Agreement;

“**EBITDA**” means the aggregate amount of combined pre-tax profits of the Group before extraordinary or exceptional items, interest, depreciation and amortisation as shown by the Latest Accounts on the relevant Testing Date;

“**EEA Member Country**” means any member state of the European Union, Iceland, Liechtenstein and Norway;

“**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;

“**Encumbrance**” means any mortgage, charge, pledge, lien, hypothecation, assignment, title retention, preferential right, option, trust arrangement or security interest or other encumbrance, security or arrangement conferring howsoever a priority of payment in respect of any obligation of any person;

“**Environmental Affiliate**” means any agent or employee of any Borrower, any Manager (other than the Third Party Manager), or any other Group Member or any other person having a contractual relationship with any Borrower, any Manager (other than the Third Party Manager), or any other Group Member in connection with any Relevant Ship or its operation or the carriage of cargo and/or passengers thereon and/or the provision of goods and/or services on or from any Relevant Ship;

“**Environmental Approval**” means any consent, authorisation, licence or approval of any governmental or public body or authorities or courts applicable to any Relevant Ship or its operation or the carriage of cargo and/or passengers thereon and/or the provision of goods and/or services on or from any Relevant Ship required under any Environmental Law;

“**Environmental Claim**” means (i) any claim by, or directive from, any applicable Government Entity alleging breach of, or non-compliance with, any Environmental Laws or Environmental Approvals or otherwise howsoever relating to or arising out of an Environmental Incident or (ii) any claim by any other third party howsoever relating to or arising out of an Environmental Incident (and, in each such case, “claim” shall include a claim for damages and/or direction for and/or enforcement relating to clean-up costs, removal, compliance, remedial action or otherwise) or (iii) any Proceedings arising from any of the foregoing;

“**Environmental Incident**” means, regardless of cause, (i) any discharge or release of Environmentally Sensitive Material from any Relevant Ship; (ii) any incident in which Environmentally Sensitive Material is discharged or released from a vessel other than a Relevant Ship which involves collision between a Relevant Ship and such other vessel or some other incident of navigation or operation, in either case, where the Relevant Ship, the relevant Manager (other than the Third Party Manager) and/or the relevant Owner and/or the relevant Group Member and/or the relevant Operator (other than the Third Party Manager) are actually, contingently or allegedly at fault or otherwise howsoever liable (in whole or in part) or (iii) any incident in which Environmentally Sensitive Material is discharged or released from a vessel other than a Relevant Ship and where such Relevant Ship is actually or reasonably likely to be arrested as a result and/or where the relevant Manager (other than the Third Party Manager) and/or the relevant Owner and/or other Group Member and/or the relevant Operator (other than the Third Party Manager) are actually or contingently at fault or allegedly and reasonably likely to be found at fault or otherwise howsoever liable to any administrative or legal action;

“**Environmental Laws**” means all laws, regulations, conventions and agreements whatsoever relating to pollution, human or wildlife well-being or protection of the environment (including, without limitation, the United States Oil Pollution Act of 1990 and any comparable laws of the individual States of the USA);

“**Environmentally Sensitive Material**” means oil, oil products or any other products or substance which are polluting, toxic or hazardous or any substance the release of which into the environment is howsoever regulated, prohibited or penalised by or pursuant to any Environmental Law;

“**Event of Default**” means any of the events or circumstances listed in clause 10.1;

“**Execution Date**” means the date on which this Agreement has been executed by all the parties hereto;

“**Existing Loan Agreement**” means the loan agreement dated 12 December 2019 made between Navios Maritime Partners L.P as borrower, ABN AMRO N.V. as lender, ABN AMRO N.V. as agent and ABN AMRO N.V. as security trustee.

“**Extended Employment Contract**” means, in respect of a Vessel, any time charterparty, contract of affreightment or other contract of employment of such ship (including the entry of any Vessel in any pool) which has a tenor exceeding thirteen (13) months (including any options to renew or extend such tenor);

“**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) Banking Days’ written notice) as the office or offices through which it will perform its obligations under this Agreement; or
- (b) in respect of any other Bank, the office in the jurisdiction in which it is resident for tax purposes.

“**Facility Period**” means the period starting on the Execution Date and ending on such date as all obligations whatsoever of all of the Security Parties under or pursuant to the Security Documents whensoever arising, actual or contingent, have been irrevocably paid, performed and/or complied with;

“**FATCA**” means:

- (a) sections 1471 to 1474 of the Code or any associated regulations or other associated 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 paragraph (a) above; or
- (c) any agreement pursuant to the implementation of 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 Security Document required by FATCA;

“**FATCA Exempt Party**” means a party that is entitled to receive payments free from any FATCA Deduction;

“**FATCA FFI**” means a foreign financial institution as defined in section 1471(d)(4) of the Code which, if the Lender is not a FATCA Exempt Party, could be required to make a FATCA Deduction;

“**Fee Letter**” means any letter or letters between the Agent and the Borrowers setting out any of the fees referred to in clause 5.1.

“**Flag State**” means the Republic of Cyprus, the Republic of Panama, the Republic of Liberia, the Republic of the Marshall Islands, Malta or such other state or territory agreed by the Lenders, at the request of the Borrowers, as the “Flag State” of the Vessels for the purposes of the Security Documents;

“**General Assignment**” means, in respect of each Vessel, the deed of assignment of its Earnings, Insurances and Requisition Compensation executed or to be executed by the relevant Owner in favour of the Security Trustee in such form as the Agent and the Majority Lenders may require in their sole discretion and in the plural means all of them;

“**Government Entity**” means any national or local government body, tribunal, court or regulatory or other agency and any organisation of which such body, tribunal, court or agency is a part or to which it is subject;

“**Group**” means at any relevant time the Corporate Guarantor and its subsidiaries but not including any subsidiary which is listed on any public stock exchange;

“**Group Member**” means any member of the Group;

“**IACS**” means the International Association of Classification Societies;

“**Indebtedness**” means any obligation howsoever arising (whether present or future, actual or contingent, secured or unsecured as principal, surety or otherwise) for the payment or repayment of money;

“**Initial Valuation Amount**” means, in respect of each Mortgaged Vessel, the value thereof as most recently determined under clause 8.2.2 (a);

“**Insurances**” means, in respect of a Vessel, all policies and contracts of insurance (which expression includes all entries of such Vessel in a protection and indemnity or war risks association) which are from time to time during the Facility Period in place or taken out or entered into by or for the benefit of the relevant Owner (whether in the sole name of the Owner, or in the joint names of the Owner and the Security Trustee or otherwise) in respect of the Vessel and her Earnings or otherwise howsoever in connection with the Vessel and all benefits thereof (including claims of whatsoever nature and return of premiums);

“**Insurances Assignment**” means, in respect of each Vessel, an assignment of its Insurances executed or to be executed by any co-assured (other than the relevant Owner and the relevant Manager) in favour of the Security Trustee in such form as the Agent may require in its sole discretion and in the plural means all of them;

“**Interest Expense**” means, for any relevant financial period, the aggregate interest paid or payable by the Group and any member thereof on any Indebtedness during such period;

“**Interest Payment Date**” means, in relation to each Advance, the last day of an Interest Period and, if an Interest Period is longer than 6 months, the date falling at the end of each successive period of 6 months during such Interest Period starting from its commencement;

“**Interest Period**” means each period for the calculation of interest in respect of the Loan or, as the case may be, Advance ascertained in accordance with the provisions of clause 3;

“**Interest Rate Determination Date**” means, in relation to any period for which an interest rate is to be determined, the date falling three (3) Banking Days before the first day of that period;

“**ISM Code**” means in relation to its application to the Borrowers, the Vessels and their operation:

- (a) ‘The International Management Code for the Safe Operation of Ships and for Pollution Prevention’, currently known or referred to as the ‘ISM Code’, adopted by the Assembly of the International Maritime Organisation by Resolution A.741(18) on 4 December 1993 and incorporated on 19 May 1994 into Chapter IX of the International Convention for Safety of Life at Sea 1974 (SOLAS 1974); and
- (b) all further resolutions, circulars, codes, guidelines, regulations and recommendations which are now or in the future issued by or on behalf of the International Maritime Organisation or any other entity with responsibility for implementing the ISM Code, including, without limitation, the ‘Guidelines on implementation or administering of the International Safety Management (ISM) Code by Administrations’ produced by the International Maritime Organisation pursuant to Resolution A.788(19) adopted on 25 December 1995,

as the same may be amended, supplemented or replaced from time to time;

“**ISM Code Documentation**” means, in relation to a Vessel, the document of compliance (DOC) and safety management certificate (SMC) issued by a Classification Society pursuant to the ISM Code in relation to that Vessel within the periods specified by the ISM Code;

“**ISM SMS**” means the safety management system which is required to be developed, implemented and maintained under the ISM Code;

“**ISPS Code**” means the International Ship and Port Security Code of the International Maritime Organisation and includes any amendments or extensions thereto and any regulations issued pursuant thereto;

“**ISSC**” means an International Ship Security Certificate issued in respect of a Vessel pursuant to the ISPS Code;

“**Latest Accounts**” means, in respect of any financial quarter or year of the Group, the latest unaudited (in respect of each financial quarter) or audited (in respect of each financial year) financial statements required to be prepared pursuant to clause 8.1.6;

“**Lenders**” means the banks listed in schedule 1 and Transferee Lenders;

“**Lending Branch**” means, in respect of each Lender, its office or branch at the address set out beneath its name in schedule 1 (or, in the case of a Transferee, in the Transfer Certificate to which it is a party as Transferee) or such other office or branch as any Lender shall from time to time select and notify through the Agent to the other parties to this Agreement;

“**LIBOR**” means for an Interest Period in relation to each Advance or any part thereof:

- (a) the applicable Screen Rate at or about 11.00 a.m. (London time) on the Interest Rate Determination Date for Dollars and for a period equal in length to the Interest Period then applicable to the Loan or that part of the Loan; or
- (b) in case of Screen Rate Replacement Event, the Replacement Benchmark on the Interest Rate Determination Date for Dollars and for a period equal in length to the Interest Period

and if, in either case, that rate is less than zero, LIBOR shall be deemed to be zero;

“**Liquidity**” means the aggregate of any cash deposits legally or beneficially held by all Group Members and including any funds held with the Account Bank and other banks from time to time to satisfy minimum liquidity requirements;

“**Liquidity Account**” means an interest bearing USD Account required to be opened hereunder with the Account Bank in the name of the Borrowers designated Oceanus Shipping Co and/or others – “Liquidity Account” and includes any other account designated in writing by the Agent to be the Liquidity Account for the purposes of this Agreement;

“**Loan**” means the aggregate principal amount of the Advances made, or to be made, available by the Lenders on the terms and subject to the conditions of this Agreement in an amount of up to USD17,000,000 or, as the context may require, the aggregate principal amount owing to the Lenders under this Agreement at any relevant time;

“**Loan-to-Value Ratio**” means the amount of the Loan outstanding divided by the Security Value at any relevant time;

“**Majority Lenders**” means at any relevant time when there are two Lenders, both of them, and at any time when there are more than two Lenders, the Lenders whose Contributions exceed 66.2/3% of the Loan;

“**Management Agreement**” means, in respect of each Vessel, the management agreement between or on behalf of the relevant Owner and the relevant Manager, each in a form previously approved in writing by the Agent (acting on the instructions of the Majority Lenders);

“**Manager**” means, in respect of each Vessel, Navios Shipmanagement Inc., a company incorporated in the Marshall Islands and having its registered office at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands, MH96960, Navios Containers Management Inc., a company incorporated in the Marshall Islands and having its registered office at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands, MH96960 or any other technical management company wholly owned by Mrs Angeliki Frangou or the Third Party Manager or, with the prior written consent of the Agent, any other person appointed by or on behalf of an Owner as the commercial and/or technical manager of the relevant Mortgaged Vessel;

“**Manager’s Undertakings**” means, collectively, the undertakings and assignments required to be executed hereunder by the relevant Manager in favour of the Security Trustee in respect of each of the Vessels each in such form as the Agent and the Majority Lenders may require in their sole discretion;

“**Mandatory Cost**” means, in relation to the Loan, such amount which any Lender certifies in a notice to the 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.

“**Margin**” means, in relation to each Interest Period, 3.50% per annum;

“**Material Adverse Effect**” means, in the reasonable opinion of the Banks, a material adverse effect on (i) the Banks’ rights under, or the security provided by, any Security Document, (ii) the ability of any Security Party to perform or comply with any of its obligations under any Security Document or (iii) the value or nature of the property, assets, operations, liabilities or financial condition of any Security Party;

“**Maturity Date**” means the earlier of (i) the date falling three and a half (3.5) years after the Drawdown Date and (ii) 31 December 2023;

“**Money Laundering**” has the meaning given to it in Article 1 of Directive 2015/849/EC of the Council of European Communities;

“**month**” means a period beginning in one calendar month and ending in the next calendar month on the day numerically corresponding to the day of the calendar month on which it started, provided that (i) if the period started on the last Banking Day in a calendar month or if there is no such numerically corresponding day, it shall end on the last Banking Day in the next calendar month and (ii) if such numerically corresponding day is not a Banking Day, the period shall end on the next following Banking Day in the same calendar month but if there is no such Banking Day it shall end on the preceding Banking Day and “months” and “monthly” shall be construed accordingly;

“**Mortgage**” means, in respect of each Vessel, the first preferred mortgage of such Vessel required to be executed hereunder by the Borrower which is the owner thereof in favour of the Security Trustee, including, if appropriate, any deed of covenant collateral thereto, each in such form as the Agent may require in its sole discretion and in the plural means all of them;

“**Mortgaged Vessel**” means, at any relevant time, a Vessel which is at such time subject to a Mortgage and a Vessel shall, for the purposes of this Agreement, be regarded as a Mortgaged Vessel as from the date on which the Mortgage of that Vessel has been executed and registered in accordance with this Agreement until whichever shall be the earlier of (i) the payment in full of the amount required to be paid to the Agent pursuant to clause 4.3 or 4.4 following the Total Loss or sale respectively of such Vessel and (ii) the end of the Facility Period;

“**Navios Holdings**” means Navios Maritime Holdings Inc., a company incorporated in the Marshall Islands and having its registered office at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands, MH96960

“**Net Total Debt**” means total debt as evidenced at any relevant time by the Latest Accounts, in which they shall have been calculated in accordance with US GAAP less the value of the liabilities relating to operating leases as defined under rule ASC 842 of the US GAAP and cash (which shall have the meaning given thereto under US GAAP) of the Group;

“**Net Worth**” means, at any relevant time, the Total Assets less Total Liabilities.

“**Operator**” means any Manager and any person who is from time to time during the Facility Period concerned in the operation of a Relevant Ship and falls within the definition of “Company” set out in rule 1.1.2 of the ISM Code;

“**Owner**” means, in relation to:

- (i) Vessel A, Cronus;
- (ii) Vessel B, Dionysus;
- (iii) Vessel C, Oceanus; and
- (iv) Vessel D, Prometheus;

and in the plural means all of them;

“**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 Encumbrance**” means any Encumbrance in favour of the Banks or any of them created pursuant to the Security Documents and Permitted Liens;

“**Permitted Holders**” means each of: (i) Angeliki Frangou; (ii) each of her 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 company or other Person in which any of the foregoing, individually or in the aggregate, own or control a majority in interest; (iii) Navios Holdings; and (iv) all Affiliates controlled by the Persons named in clauses (i) and (ii) above;

“**Permitted Liens**” means any lien on a Vessel for master’s, officer’s or crew’s wages outstanding in the ordinary course of trading, any lien for salvage and any ship repairer’s or outfitter’s possessory lien for a sum not (except with the prior written consent of the Agent) exceeding the Casualty Amount;

“**Person**” means any natural person, corporation, limited partnership, general partnership, limited liability company, limited liability partnership, joint venture, association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof or any other entity, whether legal or not;

“**Pertinent Jurisdiction**” means any jurisdiction in which or where any Security Party is incorporated, resident, domiciled, has a permanent establishment or assets, carries on, or has a place of business or is otherwise howsoever effectively connected;

“**Proceedings**” means any litigation, arbitration, legal action or complaint or judicial, quasi-judicial or administrative proceedings whatsoever arising or instigated by anyone in any court, tribunal, public office or other forum whatsoever and wheresoever (including, without limitation, any action for provisional or permanent attachment of any thing or for injunctive remedies or interim relief and any action instigated on an ex parte basis);

“**Registry**” means, in relation to each Vessel, the office of the registrar, commissioner or representative of the Flag State, which is duly empowered to register such Vessel, the relevant Owner’s title thereto and the relevant Mortgage under the laws and flag of the Flag State;

“**Relevant Advance**” means, in respect of Vessel A, Advance A, in respect of Vessel B, Advance B, in respect of Vessel C, Advance C and in respect of Vessel D, Advance D;

“**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 Ship**” means each of the Vessels and any other ship from time to time (whether before or after the Execution Date) owned, managed or crewed by, or chartered to, any Group Member;

“**Repayment Dates**” means, in respect of each Advance, subject to clause 6.3, each of the dates falling at quarterly intervals after the Drawdown Date, up to and including the date falling 42 months after such date;

“**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) in the opinion of the Majority Lenders and the Borrowers, generally accepted in the international loan markets as the appropriate successor to a Screen Rate; or
- (c) in the opinion of the Majority Lenders and the Borrowers, an appropriate successor to a Screen Rate;

“**Required Authorisation**” means any authorisation, consent, declaration, licence, permit, exemption, approval or other document, whether imposed by or arising in connection with any law, regulation, custom, contract, security or otherwise howsoever which must be obtained at any time from any person, Government Entity, central bank or other self-regulating or supra-national authority in order to enable the Borrowers lawfully to borrow the loan or draw any Advance and/or to enable any Security Party lawfully and continuously to continue its corporate existence and/or perform all its obligations whatsoever whensoever arising and/or grant security under the relevant Security Documents and/or to ensure the continuous validity and enforceability thereof;

“**Required Security Amount**” means the amount in USD (as certified by the Agent) which is at any relevant time 140% of the Loan;

“**Requisition**” means, in respect of a Vessel, requisition for title or other compulsory acquisition including, if that ship is not released therefrom within the Relevant Period, capture, appropriation, forfeiture, seizure, detention, deprivation or confiscation howsoever for any reason (but excluding requisition for use or hire) by or on behalf of any Government Entity or other competent authority or by pirates, hijackers, terrorists or similar persons; “**Relevant Period**” means for the purposes of this definition of Requisition either (i) ninety (90) days or, (ii) in respect of pirates, hijackers, terrorists or similar persons, if relevant underwriters confirm in writing (in terms satisfactory to the Lenders) prior to the end of such ninety (90) day period that such capture, appropriation, forfeiture, seizure, detention, deprivation or confiscation will be covered by the relevant Owner’s war risks insurance, the shorter of twelve (12) months after the date upon which the relevant incident occurred and such period at the end of which cover is confirmed to attach;

“**Requisition Compensation**” means, in respect of a Vessel, all moneys or other compensation from time to time payable during the Facility Period by reason of the Requisition of such Vessel;

“**Resolution Authority**” means any body which has authority to exercise any Write-down and Conversion Powers;

“**Retention Account**” means an interest bearing USD Account required to be opened hereunder with the Account Bank in the name of the Borrowers designated Oceanus Shipping Co and/or others – Retention Account” and includes any other account designated in writing by the Agent to be the Retention Account for the purposes of this Agreement;

“**Retention Amount**” means, in relation to any Retention Date, such sum as shall be the aggregate of:

- (a) one third (1/3rd) of the repayment instalment in respect of the relevant Advance falling due for payment pursuant to clause 4.1.1 (as the same may have been reduced by any prepayment) on the next Repayment Date after the relevant Retention Date in respect of that Advance; and

- (b) the applicable fraction (as hereinafter defined) of the aggregate amount of interest falling due for payment in respect of each part of the Loan during and at the end of each Interest Period current at the relevant Retention Date and, for this purpose, the expression “**applicable fraction**” in relation to each Interest Period shall mean a fraction having a numerator of one and a denominator equal to the number of Retention Dates falling within the relevant Interest Period;

“**Retention Dates**” means, in respect of each Advance, the date falling thirty (30) days after the Drawdown Date and each of the dates falling at monthly intervals after such date and prior to the Maturity Date;

“**Sanction Authority**” means:

- (a) the government of the United States of America;
- (b) the United Nations;
- (c) the European Union (or the governments of any of its member states);
- (d) the United Kingdom; or
- (e) the respective governmental institutions and agencies of any of the foregoing including the Office of Foreign Assets Control of the U.S. Department of the Treasury (“**OFAC**”), the United States Department of State, the United States Department of Commerce and Her Majesty’s Treasury;

“**Sanctions**” means any economic, financial or trade sanctions laws, regulations, embargoes or other restrictive measures adopted, administered, enacted or enforced by any Sanctions Authority, or otherwise imposed by any law or regulation compliance with which is reasonable in the ordinary course of business of any Borrower, any Security Party, any Manager (other than the Third Party Manager) or any Bank or to which any Borrower, any Security Party, any Manager or any Bank are subject (which shall include without limitation, any extra-territorial sanctions imposed by law or regulation of the United States of America);

“**Sanctions Restricted Jurisdiction**” means any country or territory which is the target of country-wide or territory-wide Sanctions, including as at the Execution Date, Iran, Sudan, Syria, Crimea, North Korea and Cuba;

“**Sanctions Restricted Person**” means a person or vessel:

- (a) that is, or is directly or indirectly, owned or controlled (as such terms are defined by the relevant Sanctions Authority) by, or acting on behalf of, one or more persons or entities on any list (each as amended, supplemented or substituted from time to time) of restricted entities, persons or organisations (or equivalent) published by a Sanctions Authority;
- (b) that is located or resident in or incorporated under the laws of, or owned or controlled by, a person located or resident in or incorporated under the laws of a Sanctions Restricted Jurisdiction; or
- (c) that is otherwise the target or subject of Sanctions;

“**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 Agent may 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 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 the Screen Rate determines that the 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 events leading to such determination are not (in the opinion of the Majority Lenders and the Borrowers temporary; or
 - (ii) the Screen Rate is calculated in accordance with any such policy or arrangement for a period no less than 10 Banking Days; 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;

“Security Documents” means this Agreement, the Corporate Guarantee, the Mortgages, the General Assignments, any Charter Assignment, the Accounts Pledge, the Manager’s Undertakings, the Shares Charges, any Insurances Assignment, any Fee Letter and any other documents as may have been or shall from time to time after the Execution Date be executed to guarantee and/or to govern and/or to secure payment of all or any part of the Loan, interest thereon and other moneys from time to time owing by the Borrowers pursuant to this Agreement (whether or not any such document also guarantees and/or secures moneys from time to time owing pursuant to any other document or agreement);

“Security Party” means the Borrowers, the Corporate Guarantor, the Shareholder or any other person who may at any time be a party to any of the Security Documents (other than the Banks and the Managers);

“Security Trustee” means Hellenic Bank Public Company Limited, a company incorporated in Cyprus acting for the purposes of this Agreement through its office at Corner Limassol Avenue & 200 Athalassa Avenue, 2025 Strovolos, Nicosia, Cyprus (or of such other address as may last have been notified to the other parties to this Agreement pursuant to clause 17.2.3) or such other person as may be appointed as Security Trustee and trustee by the Lenders, the Arranger, the Account Bank and the Agent pursuant to clause 16.14;

“Security Value” means the amount in USD which is, at any relevant time, the aggregate of (a) the Valuation Amounts of the Mortgaged Vessels as most recently determined in accordance with clause 8.2.2 and (b) the net realizable market value of any additional security for the time being actually provided to the Lenders pursuant to clause 8.2.1(b) (which, for the avoidance of doubt, shall exclude any amounts standing to the credit of the Earnings Accounts, the Retention Account and the Liquidity Account);

“Shareholder” means Navios Maritime Operating L.L.C., a limited liability company incorporated in the Marshall Islands and having its registered office at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands, MH96960;

“Shares Charge” means the first priority charge of the shares of and in each Borrower to be executed by the Shareholder in favour of the Security Trustee in such form as the Agent may require in its sole discretion and in the plural means all of them;

“Ship Security Documents” means in relation to each Vessel, the Mortgage, the General Assignment, any Charter Assignment, the Manager’s Undertakings and the Insurances Assignments in respect of such Vessel;

“subsidiary” of a person means any company or entity directly or indirectly controlled by such person, and for this purpose “control” means the ownership of more than fifty per cent (50%) of the voting share capital (or equivalent rights of ownership) of such company or entity;

“Taxes” includes all present and future income, corporation, capital or value-added taxes and all stamp and other taxes and levies, imposts, deductions, duties, charges and withholdings whatsoever together with interest thereon and penalties in respect thereto, if any, and charges, fees or other amounts made on or in respect thereof (and “Taxation” shall be construed accordingly);

“Testing Date” means the date on which the audited or, as the case may be, unaudited, statements, referred to in Clause 8.1.6 (*Financial statements*) are delivered to the Agent;

“**Total Assets**” means, as at the date of calculation or, as the case may be, for any accounting period, the total assets (based on book values) (which shall have the meaning given thereto under US GAAP) of the Corporate Guarantor as at that date or for that period as shown in the Latest Accounts;

“**Total Liabilities**” means, as at the date of calculation or, as the case may be, for any accounting period, the total liabilities (which shall have the meaning given thereto under US GAAP) of the Corporate Guarantor as at that date or for that period as shown in the Latest Accounts;

“**Total Commitment**” means, at any relevant time, the aggregate of the Commitments of all the Lenders at such time (being the aggregate of the sums set out opposite their names in schedule 1);

“**Total Loss**” means, in respect of each Vessel:

- (a) actual, constructive, compromised, agreed or arranged total loss of such Vessel; or
- (b) Requisition; or
- (c) any hijacking, theft, condemnation, capture, seizure, arrest, detention or confiscation of such Vessel not falling within the definition of Requisition, unless such Vessel be released and restored to the relevant Owner within ninety (90) days after such incident;

“**Transfer Certificate**” means a certificate in substantially the form set out in schedule 4;

“**Transferee Lender**” has the meaning ascribed thereto in clause 15.3;

“**Transferor Lender**” has the meaning ascribed thereto in clause 15.3;

“**Trust Deed**” means a trust deed in the form, or substantially in the form, set out in schedule 5;

“**Trust Property**” means (i) the security, powers, rights, titles, benefits and interests (both present and future) constituted by and conferred on the Banks or any of them under or pursuant to the Security Documents (including, without limitation, the benefit of all covenants, undertakings, representations, warranties and obligations given, made or undertaken to any Bank in the Security Documents), (ii) all moneys, property and other assets paid or transferred to or vested in any Bank (or anyone else on such Bank’s behalf) or received or recovered by any Bank (or anyone else on such Bank’s behalf) pursuant to, or in connection with, any of the Security Documents whether from any Security Party or any other person and (iii) all moneys, 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 Bank (or anyone else on such Bank’s behalf) in respect of the same (or any part thereof);

“**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 BRDD) Part I 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 institutions or their affiliates (otherwise than through liquidation, administration or other insolvency proceedings);

“**Underlying Documents**” means, together, any Extended Employment Contracts and the Management Agreements;

“**Unlawfulness**” means any event or circumstance which either is or, as the case may be, might in the opinion of the Agent become the subject of a notification by the Agent to the Borrowers under clause 12.1;

“**US GAAP**” means generally accepted accounting principles in the US;

“**US Tax Obligor**” means:

- (a) a Borrower if it is resident for tax purposes in the USA; or
- (b) a Security Party some or all of whose payments under the Security Documents are from sources within the USA for USA federal income tax purposes;

“**USA**” means the United States of America;

“**Valuation Amount**” means, in respect of each Mortgaged Vessel, the value thereof as most recently determined under clause 8.2.2 (b);

“**Vessel**” means each of Vessel A, Vessel B, Vessel C and Vessel D and in the plural means all of them as defined in Schedule 7; and

“**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.

Words and expressions defined in Schedule 7 (Vessel and Third Party Manager Details) shall have the meanings given to them therein as if the same were set out in full in this clause 1.2.

1.3 Construction

In this Agreement, unless the context otherwise requires:

- 1.3.1 clause headings and the index are inserted for convenience of reference only and shall be ignored in the construction of this Agreement;
- 1.3.2 references to clauses and schedules are to be construed as references to clauses of, and schedules to, this Agreement and references to this Agreement include its schedules and any supplemental agreements executed pursuant hereto;
- 1.3.3 references to (or to any specified provision of) this Agreement or any other document shall be construed as references to this Agreement, that provision or that document as in force for the time being and as duly amended and/or supplemented and/or novated;
- 1.3.4 references to a “regulation” include any present or future regulation, rule, directive, requirement, request or guideline (whether or not having the force of law) of any Government Entity, central bank or any self-regulatory or other supra-national authority (including, without limitation, any regulation implementing or complying with (1) 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 Execution Date (“**Basel II**”) and/or (2) Basel III and/or (3) Basel IV and (4) any other law or regulation which, at any time and from time to time, implements and/or amends and/or supplements and/or re-enacts and/or supersedes, whether in whole or in part, Basel II and/or Basel III and/or Basel IV (including CRD IV and CRR), and whether such implementation, application or compliance is by a Government Entity, a lender or any company affiliated to it);
- 1.3.5 references to any person in or party to this Agreement shall include reference to such person’s lawful successors and assigns and references to a Lender shall also include a Transferee Lender;
- 1.3.6 words importing the plural shall include the singular and vice versa;
- 1.3.7 references to a time of day are, unless otherwise stated, to London time;
- 1.3.8 references to a person shall be construed as references to an individual, firm, company, corporation or unincorporated body of persons or any Government Entity;

- 1.3.9 references to a “guarantee” include references to an indemnity or any other kind of assurance whatsoever (including, without limitation, any kind of negotiable instrument, bill or note) against financial loss or other liability including, without limitation, an obligation to purchase assets or services as a consequence of a default by any other person to pay any Indebtedness and “guaranteed” shall be construed accordingly;
- 1.3.10 references to any statute or other legislative provision are to be construed as references to any such statute or other legislative provision as the same may be re enacted or modified or substituted by any subsequent statute or legislative provision (whether before or after the date hereof) and shall include any regulations, orders, instruments or other subordinate legislation issued or made under such statute or legislative provision;
- 1.3.11 a certificate by the Agent or the Security Trustee as to any amount due or calculation made or any matter whatsoever determined in connection with this Agreement shall be conclusive and binding on the Borrowers except for manifest error;
- 1.3.12 if any document, term or other matter or thing is required to be approved, agreed or consented to by any of the Banks such approval, agreement or consent must be obtained in writing unless the contrary is stated;
- 1.3.13 time shall be of the essence in respect of all obligations whatsoever of the Borrowers under this Agreement, howsoever and whensoever arising;
- 1.3.14 and the words “other” and “otherwise” shall not be construed eiusdem generis with any foregoing words where a wider construction is possible.

1.4 **Accounting terms and references to currencies**

All accounting terms not otherwise defined in this Agreement shall have the meanings assigned to them in accordance with generally accepted international accounting principles (or such other accounting principles as the Agent deems appropriate).

Currencies are referred to in this Agreement by the three letter currency codes (ISO 4217) allocated to them by the International Organisation for Standardisation.

1.5 **Contracts (Rights of Third Parties Act) 1999**

No part of this Agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Agreement.

1.6 **Majority Lenders**

Where this Agreement or any other Security Document provides for any matter to be determined by reference to the opinion of the Majority Lenders or to be subject to the consent or request of the Majority Lenders or for any decision or action to be taken on the instructions in writing of the Majority Lenders, such opinion, consent, request or instructions shall (as between the Lenders) only be regarded as having been validly given or issued by the Majority Lenders if all the Lenders with a Commitment and/or Contribution shall have received prior notice of the matter on which such opinion, consent, request or instructions are required to be obtained and the relevant majority of such Lenders shall have given or issued such opinion, consent, request or instructions but so that (as between the Borrowers and the Banks) the Borrowers shall be entitled (and bound) to assume that such notice shall have been duly received by each relevant Lender and that the relevant majority shall have been obtained to constitute Majority Lenders whether or not this is in fact the case.

2 THE AVAILABLE COMMITMENT AND CANCELLATION

2.1 Agreement to lend

The Lenders, relying upon each of the representations and warranties in clause 7, agree to provide to the Borrowers upon and subject to the terms of this Agreement, the Advances, which shall be drawn simultaneously, for the purposes of enabling the partial prepayment of the amount outstanding under the Existing Loan Agreement. Subject to the terms of this Agreement, the obligations of the Lenders shall be to contribute to each Advance, the proportion of the relevant Advance which their respective Commitments bear to the Total Commitment on the Drawdown Date.

2.2 Obligations several

The obligations of the Lenders under this Agreement are several according to their respective Commitments and/or Contributions. The failure of any Lender to perform such obligations shall not relieve any other party to this Agreement of any of its respective obligations or liabilities under this Agreement nor shall any Bank be responsible for the obligations of any other Bank (except for its own obligations, if any, as a Lender) under this Agreement.

2.3 Interests several

Notwithstanding any other term of this Agreement (but without prejudice to the provisions of this Agreement relating to or requiring action by the Majority Lenders) the interests of the Banks are several and the amount due to any Bank is a separate and independent debt. Each Bank shall have the right to protect and enforce its rights arising out of this Agreement and it shall not be necessary for any other Bank to be joined as an additional party in any Proceedings for this purpose.

2.4 Drawdown

2.4.1 On the terms and subject to the conditions of this Agreement, each Advance shall be advanced to the Borrowers on the Drawdown Date following receipt by the Agent from the Borrowers of the Drawdown Notice not later than 10 a.m. on the third Banking Day before the proposed Drawdown Date.

2.4.2 The Drawdown Notice shall be effective on actual receipt by the Agent and, once given, shall, subject as provided in clause 3.6, be irrevocable.

2.5 Limitation and application of Advances

2.5.1 Subject to clauses 5.2.2 and 5.3.3, the principal amount specified in the Drawdown Notice for borrowing on the Drawdown Date shall, subject to the terms of this Agreement be:

- (a) in respect of Advance A, USD4,472,100;
- (b) in respect of Advance B, USD4,507,400;
- (c) in respect of Advance C, USD4,096,400; and

- (d) in respect of Advance D, USD3,924,100,
- 2.5.2 The amount of each Advance shall not exceed the lesser of (i) the relevant maximum amount available under such Advance and (ii) 55% of the Valuation Amount of the relevant Vessel as at the Drawdown Date and the amount of the Loan shall not exceed the lesser of (i) seventeen million Dollars (USD 17,000,000) and (ii) 55% of the aggregate of the Valuation Amount of the Vessels as at the final Drawdown Date.
- 2.5.3 Each Advance shall be paid forthwith upon drawdown to such account or accounts as the Borrowers shall stipulate in the Drawdown Notice.
- 2.6 **Availability**
- Upon receipt of the Drawdown Notice complying with the terms of this Agreement, the Agent shall promptly notify each Lender and each Lender shall make available to the Agent its portion of the relevant Advance for payment by the Agent in accordance with clause 6.2. The Borrowers acknowledge that payment of any Advance to the account referred to in the Drawdown Notice shall satisfy the obligation of the Lenders to lend that Advance to the Borrowers under this Agreement.
- 2.7 **Voluntary cancellation of Facility**
- The Borrowers may, without penalty or cost but after payment of any Break Costs, at any time during the Drawdown Period by notice to the Agent (effective only on actual receipt) cancel with effect from a date not less than three (3) Banking Days after the receipt by the Agent of such notice the whole or any part of the Total Commitment. Any such notice of cancellation, once given, shall be irrevocable and the Total Commitment shall be reduced accordingly and each Lender's Commitment shall be reduced pro rata according to the proportion which its Commitment bears to the Total Commitment.
- 2.8 **Cancellation in changed circumstances**
- The Borrowers may also at any time during the Facility Period by notice to the Agent (effective only on actual receipt) prepay and cancel with effect from a date not less than three (3) days after receipt by the Agent of such notice, the whole but not part only, but without prejudice to the Borrowers' obligations under clauses 6.6 and 12, of the Contribution and Commitment (if any) of any Lender to which the Borrowers shall have become obliged to pay additional amounts under clause 12 or clause 6.6. Upon any notice of such prepayment and cancellation being given, the Commitment of the relevant Lender shall be reduced to zero, the Borrowers shall be obliged to prepay the Contribution of such Lender and such Lender's related costs (including but not limited to Break Costs) on such date and such Lender shall be under no obligation to participate in the Loan or any further Advances.
- 2.9 **Cancellation**
- If any part of the Loan is not drawn down by the end of the Drawdown Period, the Commitment shall thereupon be automatically cancelled and the Lenders shall have no further obligation under this Agreement.

2.10 **Use of proceeds**

Without prejudice to the Borrowers' obligations under clause 8.1.4, no Bank shall have any responsibility for the application of the proceeds of any Advance or any part thereof by the Borrowers.

3 **INTEREST AND INTEREST PERIODS**

3.1 **Normal interest rate**

The Borrowers agree to pay interest on each Advance or part thereof in respect of each Interest Period relating thereto on each Interest Payment Date (or, in the case of Interest Periods of more than three (3) months, by instalments, the first of such instalments three (3) months from the commencement of the Interest Period and the subsequent instalments at intervals of three (3) months and on the last day of such Interest Period) at the rate per annum determined by the Agent to be the aggregate of (a) the Margin in respect of that Advance, (b) LIBOR for such period and (c) Mandatory Cost (if any).

3.2 **Selection of Interest Periods**

The Borrowers may by notice received by the Agent not later than 10:00 a.m. on the second Banking Day before the beginning of each Interest Period request that such Interest Period shall have a length of one (1), three (3) or six (6) months or such other period as the Borrowers may select and the Agent (acting on the instructions of the Lenders) may, subject to the same being available in the London Interbank Market, agree, and if the Borrowers wish to specify an Interest Period of more than 12 months, they must give at least 5 Banking Days prior notice thereof.

3.3 **Determination of Interest Periods**

The length of each Interest Period shall be as requested by the Borrowers under clause 3.2 but so that:

- 3.3.1 the first Interest Period in respect of the first Advance to be made hereunder shall start on the Drawdown Date in respect thereof, and each subsequent Interest Period relating to each Advance shall start the day falling after the last day of the previous Interest Period;
- 3.3.2 the first Interest Period in respect of each subsequent Advance to be made hereunder shall commence on its Drawdown Date and terminate simultaneously with the Interest Period which is then current for the Loan and each subsequent Interest Period shall start the day falling after the last day of the previous Interest Period;
- 3.3.3 if any Interest Period would otherwise overrun a Repayment Date, then, in the case of the last Repayment Date, such Interest Period shall end on the last Repayment Date, and in the case of any other Repayment Date the relevant Advance shall be divided into parts so that there is one part in the amount of the repayment instalment due on each Repayment Date falling in that Interest Period and having an Interest Period ending on the relevant Repayment Date and another part consisting of the balance of the relevant Advance having an Interest Period ascertained in accordance with the other provisions of this clause 3; and
- 3.3.4 if the Borrowers fail to specify the length of an Interest Period in accordance with the provisions of clause 3.2 and this clause 3.3 such Interest Period shall last three months or such other period as complies with this clause 3.3.

3.4 **Default interest**

If the Borrowers fail to pay any sum whatsoever (including, without limitation, any sum payable pursuant to this clause 3.4) on its due date for payment under any of the Security Documents, the Borrowers must pay interest on such sum on demand from the due date up to the date of actual payment (as well after as before judgment) at a rate determined by the Agent pursuant to this clause 3.4. The period starting on such due date and ending on such date of payment shall be divided into successive periods of not more than one (1) month as selected by the Agent each of which (other than the first, which shall start on such due date) shall start on the last day of the preceding such period. The rate of interest applicable to each such period shall be the aggregate (as determined by the Agent) of (a) two per cent (2%) per annum, (b) the Margin and (c) LIBOR for such period. Such interest shall be due and payable on the last day of each such period as determined by the Agent and on the day on which all amounts in respect of which interest is being paid under this clause are paid, and each such day shall be treated as an Interest Payment Date, provided that if such unpaid sum is (i) an amount of principal which became due and payable by reason of a declaration by the Agent under clause 10.2.2 or (ii) a prepayment pursuant to clauses 4.3, 4.4, 8.2.1(a) or 12.1 on a date other than an Interest Payment Date relating thereto, the first such period selected by the Agent shall be of a length equal to the period between the due date of such principal sum and such Interest Payment Date and interest shall be payable on such principal sum during such period at a rate of two per cent (2%) above the rate applicable thereto immediately before it shall have become so due and payable. If, for the reasons specified in clause 3.5.1, the Agent is unable to determine a rate in accordance with the foregoing provisions of this clause 3.4, each Lender shall promptly notify the Agent of the cost of funds to such Lender and interest on any sum not paid on its due date for payment shall be calculated at a rate determined by the Agent to be two per cent (2%) per annum above the aggregate of the Margin and the arithmetic mean of the cost of funds to the Lenders compounded at such intervals as the Agent selects.

3.5 **Notification of Interest Periods and interest rate**

The Agent agrees to notify (i) the Lenders promptly of the length of each Interest Period and (ii) the Borrowers and the Lenders promptly of each rate of interest determined by it under this clause 3.

3.5.1 Market Disruption Event: If and whenever, at any time prior to the commencement of any Interest Period, the Agent (in its discretion) shall have determined (which determination shall be conclusive in the absence of manifest error) that a Market Disruption Event has occurred in relation to the Loan for any such Interest Period, then the Agent shall forthwith give notice thereof (a “**Determination Notice**”) to the Borrowers and the rate of interest on each Lender’s share in the Loan (or the relevant part thereof) for that Interest Period shall be the percentage rate per annum which is the sum of:

- (a) the Margin and the Mandatory Cost (if any); and
- (b) the rate notified to the Agent by that Lender as soon as practicable and in any event by close of business on the date falling three (3) Banking Days after the Interest Rate Determination Date (or, if earlier, the date falling three (3) Banking Days before the date on which 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 the Loan from whatever source it may reasonably select.

- 3.5.2 Suspension of drawdown: If the Determination Notice is given before the Commitment (or a part thereof) is advanced, the Lenders' obligation to make the Commitment (or a part thereof) available shall be suspended while the circumstances referred to in the Determination Notice continue.
- 3.5.3 Meaning of "Market Disruption Event": In this Agreement "**Market Disruption Event**" means:
- (a) at or about noon on the Interest Rate Determination Date for the relevant Interest Period no Screen Rate is available for Dollars or Replacement Benchmark; and/or
 - (b) before close of business on the Interest Rate Determination Date for the relevant Interest Period, the Agent receives notifications from a Lender that the cost to it of obtaining matching deposits in the London Interbank Market or the international market relevant to the Replacement Benchmark (as the case may be) to fund its participation in the Loan (or the relevant part thereof) for such Interest Period would be in excess of the Screen Rate or, as the case may be, the Replacement Benchmark for that Interest Period; and/or
 - (c) before close of business on the Interest Rate Determination Date for the relevant Interest Period, the Agent receives notifications from a Lender that deposits in Dollars are not available to that Lender in the London Interbank Market or the international market relevant to the Replacement Benchmark (as the case may be) in the ordinary course of business in sufficient amounts to fund its participation in the Loan (or the relevant part thereof) for that Interest Period.
- 3.5.4 Alternative basis of interest or funding
- (a) If a Market Disruption Event occurs and the Agent or the Borrowers so require, the Agent and the Borrowers shall enter into negotiations (for a period of not more than twenty (20) days (the "**Negotiation Period**")) after the giving of the relevant Determination Notice 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 be binding on the Lenders and all Security Parties.
- 3.5.5 Alternative basis of interest in absence of agreement: If the Agent and the Borrowers will not enter into negotiations as provided in Clause 3.5.4 (Alternative basis of interest or funding) or if an alternative interest rate or alternative basis is not agreed within the Negotiation Period, and the relevant circumstances are continuing at the end of the Negotiation Period, then the Agent shall set the following Interest Period and an interest rate representing the cost of funding of the relevant Lender in Dollars of its participation in the Loan (or the relevant part thereof) plus the Margin for such Interest Period; if the relevant circumstances are continuing at the end of the Interest Period so set by the Agent, the Agent shall continue to set the following Interest Period and an interest rate representing its cost of funding in Dollars of the Loan (or the relevant part thereof) plus the Margin for such Interest Period.

- 3.5.6 Notice of prepayment: If the Borrowers do not agree with an interest rate set by the Agent under Clause 3.5.5 (Alternative basis of interest in absence of agreement), the Borrowers may give the Agent not less than 5 Banking Days' notice of its intention to prepay the Loan at the end of the interest period set by the Agent.
- 3.5.7 Prepayment; termination of Commitment: A notice under Clause 3.5.6 (Notice of prepayment) shall be irrevocable; and on the last Banking Day of the interest period set by the Agent the Borrowers shall prepay (without premium or penalty) the Loan, together with accrued interest thereon at the applicable rate plus the Margin and the balance of all other amounts payable under this Agreement and the other Security Documents or, if the Commitment has not been advanced, the Commitment shall be reduced to zero and the Loan shall not be made to the Borrowers under this Agreement thereafter.
- 3.5.8 Application of prepayment: The provisions of Clause 4 (Repayment and Prepayment) shall apply in relation to the prepayment made hereunder.

3.6 **Replacement of Screen Rate**

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 that Screen Rate; and
- (b)
 - (i) aligning any provision of any Security 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 hereto 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 Majority Lenders and the Borrowers.

4 **REPAYMENT AND PREPAYMENT**

4.1 **Repayment**

4.1.1 Subject as otherwise provided in this Agreement, the Borrowers must repay:

- (a) Advance A by fourteen (14) quarterly instalments to be repaid on each of the Repayment Dates in respect of that Advance and a balloon instalment to be repaid on the final Repayment Date. The amount of the first four (4) instalments shall be USD136,800, the amount of the next ten (10) instalments shall be USD173,600 and the amount of the Balloon Instalment shall be USD2,188,900;
- (b) Advance B by fourteen (14) quarterly instalments to be repaid on each of the Repayment Dates in respect of that Advance and a balloon instalment to be repaid on the final Repayment Date. The amount of the first four (4) instalments shall be USD137,900, the amount of the next ten (10) instalments shall be USD175,000 and the amount of the Balloon Instalment shall be USD2,205,800;
- (c) Advance C by fourteen (14) quarterly instalments to be repaid on each of the Repayment Dates in respect of that Advance and a balloon instalment to be repaid on the final Repayment Date. The amount of the first four (4) instalments shall be USD125,300, the amount of the next ten (10) instalments shall be USD159,000 and the amount of the Balloon Instalment shall be USD2,005,200; and
- (d) Advance D by fourteen (14) quarterly instalments to be repaid on each of the Repayment Dates in respect of that Advance and a balloon instalment to be repaid on the final Repayment Date. The amount of the first four (4) instalments shall be USD120,000, the amount of the next ten (10) instalments shall be USD152,400 and the amount of the Balloon Instalment shall be USD1,920,100.

If the Commitment in respect of any Advance is not drawn in full, the amount of each repayment instalments including the said balloon instalment for that Advance shall be reduced proportionately.

4.1.2 The Borrowers shall on the Maturity Date in respect of the last Advance to be repaid also pay to the Agent and the Lenders the whole of the Loan then outstanding and all other amounts in respect of interest or otherwise then due and payable under this Agreement and the Security Documents.

4.2 **Voluntary prepayment**

Subject to clauses 4.6 and 4.7 the Borrowers may prepay any specified amount of any Advance on any Interest Payment Date relating to the part of the Loan to be repaid without premium or penalty.

4.3 **Mandatory Prepayment on Total Loss**

On the date falling one hundred and eighty (180) days after that on which a Mortgaged Vessel became a Total Loss or, if earlier, on the date upon which the relevant insurance proceeds are, or Requisition Compensation in respect of such Mortgaged Vessel is, received by the relevant Borrower (or the Security Trustee pursuant to the Security Documents), the Borrowers must prepay the Loan by an amount equal to the aggregate of:

- (a) the Relevant Advance; and

- (b) any additional amount required to ensure that:
 - (i) the Security Value after such prepayment is at least equal to the Required Security Amount; and
 - (ii) the Loan-to-Value ratio immediately after such prepayment is not more than the Loan-to-Value ratio existing immediately prior to such prepayment.

4.4 **Interpretation**

For the purpose of this Agreement, a Total Loss shall be deemed to have occurred:

- (a) in the case of an actual total loss of a Vessel, on the actual date and at the time such Vessel was lost or, if such date is not known, on the date on which such Vessel was last reported;
- (b) in the case of a constructive total loss of a Vessel, upon the date and at the time notice of abandonment of the ship is given to the then insurers of such Vessel (provided a claim for total loss is admitted by such insurers) or, if such insurers do not immediately admit such a claim, at the date and at the time at which either a total loss is subsequently admitted by such insurers or a total loss is subsequently adjudged by a competent court of law or arbitration tribunal to have occurred;
- (c) in the case of a compromised or arranged total loss of a Vessel, on the date upon which a binding agreement as to such compromised or arranged total loss has been entered into by the then insurers of such Vessel;
- (d) in the case of Requisition, on the date when that occurs; and
- (e) in the case of hijacking, theft, condemnation, capture, seizure, arrest, detention or confiscation of a Vessel (other than within the definition of Requisition) on the date falling ninety (90) days after such incident.

4.5 **Mandatory prepayment on sale of Mortgaged Vessel**

On the date of completion of the sale or transfer of ownership of any Mortgaged Vessel the Borrowers must prepay the Loan by an amount equal to the greater of (i) the Relevant Advance and (ii) provided there remains a balance of the sale or transfer proceeds after the prepayment of the Relevant Advance, such amount as would be required to ensure that the Security Value after such prepayment is at least equal to the aggregate of:

- (a) the Relevant Advance; and
- (b) any additional amount required to ensure that:
 - (i) the Security Value after such prepayment is at least equal to the Required Security Amount; and
 - (ii) the Loan-to-Value ratio immediately after such prepayment is not more than the Loan-to-Value ratio existing immediately prior to such prepayment.

4.6 **Amounts payable on prepayment**

Any prepayment of all or part of the Loan under this Agreement shall be made together with:

4.6.1 accrued interest on the amount to be prepaid to the date of such prepayment;

4.6.2 any additional amount payable under clauses 3.6, 6.6 or 12.2; and

4.6.3 all other sums payable by the Borrowers to the Banks under this Agreement or any of the other Security Documents including, without limitation any Break Costs.

4.7 **Notice of prepayment; reduction of repayment instalments**

4.7.1 No prepayment may be effected under clause 4.2 unless the Borrowers shall have given the Agent at least three (3) Banking Days' prior written notice of their intention to make such prepayment. Every notice of prepayment shall be effective only on actual receipt by the Agent, shall be irrevocable, shall specify the amount to be prepaid and shall oblige the Borrowers to make such prepayment on the date specified.

4.7.2 Any amounts prepaid pursuant to clause 4.2 shall be applied against the relevant Advance in reducing the repayment instalments thereof (including the Balloon Instalment) pro rata or in such other manner and order as shall be agreed between the Borrowers and the Lenders at the time of such prepayment.

4.7.3 Any amounts prepaid pursuant to clauses 4.3 or 4.5 shall be applied fully against the Relevant Advance and thereafter shall be applied pro rata against the repayment instalments of the remaining Advances which are at that time outstanding (including the Balloon Instalments) or in such other manner and order as shall be agreed between the Borrowers and the Lenders at the time of such prepayment.

4.7.4 The Borrowers may not prepay any part of the Loan except as expressly provided in this Agreement.

4.7.5 No amount prepaid may be re-borrowed.

4.8 **Deferral Option**

The Borrowers may defer two consecutive repayment instalments in respect of each Advance (each a "**Deferred Instalment**") falling due under Clause 4.1.1 on any of the Repayment Dates falling after the first six Repayment Dates (or, if earlier, after the first six repayment instalments of each Advance have been repaid or prepaid) by giving written notice to the Agent at least ten (10) Banking Days prior to the Repayment Date in respect of the instalment to be deferred, following which the repayment instalment due on that Repayment Date shall be added to the Balloon Instalment in respect of the relevant Advance, which will be increased accordingly, Provided that (i) an election under this Clause 4.8 shall apply at the same time to all the Advances and (ii) the Borrowers may make an election under this Clause 4.8 only if at the time such election is made and on the Repayment Date relative to the deferred repayment instalment (a) no Event of Default has occurred which is continuing and (b) no breach of any covenant under this Agreement or no Event of Default would occur as a result of such deferral.

5 **FEES AND EXPENSES**

5.1 **Fees**

The Borrowers shall pay arrangement fees and deferral fees in accordance with any Fee Letters.

5.2 **Expenses**

The Borrowers agree to reimburse the Banks on a full indemnity basis on demand for all expenses and/or disbursements whatsoever certified by the Banks or any of them as having been incurred by them from time to time and at any time:

5.2.1 in connection howsoever with the syndication of the Loan and with the negotiation, preparation, execution and, where relevant, registration of the Security Documents and of any contemplated or actual amendment, or indulgence or the granting of any waiver or consent howsoever in connection with, any of the Security Documents; and

5.2.2 in contemplation or furtherance of, or otherwise howsoever in connection with, the exercise or enforcement of, or preservation of any rights, powers, remedies or discretions under any of the Security Documents, or in consideration of the Banks' rights thereunder or any action proposed or taken,

together with interest at the rate referred to in clause 3.4 from the date on which such expenses and/or disbursements were incurred to the date of payment (as well after as before judgment).

5.3 **Value Added Tax**

All fees and expenses payable under to this clause 5 must be paid with value added tax or any similar tax (if any) properly chargeable thereon. Any value added tax chargeable in respect of any services supplied by the Banks or any of them under this Agreement shall, on delivery of the value added tax invoice, be paid in addition to any sum agreed to be paid hereunder.

5.4 **Stamp and other duties**

The Borrowers must pay all stamp, documentary, registration or other like duties or taxes (including any duties or taxes payable by any of the Banks but excluding any FATCA Deduction) imposed on or in connection with any of the Underlying Documents, the Security Documents or the Loan or any Advance and agree to indemnify the Banks or any of them against any liability arising by reason of any delay or omission by any Borrower to pay such duties or taxes.

6 **PAYMENTS AND TAXES; ACCOUNTS AND CALCULATIONS**

6.1 **No set-off or counterclaim**

All payments to be made by the Borrowers under any of the Security Documents must be made in full, without any set off or counterclaim whatsoever and, subject to clause 6.6, free and clear of any deductions or withholdings, in USD not later than 11 a.m. London time on the due date in freely available funds to such account at such bank and in such place as the Agent may from time to time specify for this purpose. Save as otherwise provided in this Agreement or any other relevant Security Documents, such payments shall be for the account of all Lenders and the Agent shall distribute such payments in like funds as are received by the Agent to the Lenders rateably, in the proportions which their respective Contributions bear to the aggregate of the Loan and the Advances on the date on which such payment is made.

6.2 Payment by the Lenders

All sums to be advanced by the Lenders to the Borrowers under this Agreement shall be remitted in USD on the Drawdown Date to the account of the Agent at such bank as the Agent may have notified to the Lenders and shall be paid by the Agent on such date in like funds as are received by the Agent to the account or accounts specified in the Drawdown Notice.

6.3 Non-Banking Days

When any payment under any of the Security Documents would otherwise be due on a day which is not a Banking Day, the due date for payment shall be extended to the next following Banking Day unless such Banking Day falls in the next calendar month in which case payment shall be made on the immediately preceding Banking Day.

6.4 Calculations

All interest and other payments of an annual nature under any of the Security Documents shall accrue from day to day and be calculated on the basis of actual days elapsed and a three hundred and sixty (360) day year.

6.5 Currency of account

If any sum due from the Borrowers under any of the Security Documents, or under any order or judgment given or made in relation thereto or for any other reason whatsoever, must be converted from the currency ("the first currency") in which the same is payable thereunder into another currency ("the second currency") for the purpose of (i) making or filing a claim or proof against the Borrowers, (ii) obtaining an order or judgment in any court or other tribunal or (iii) enforcing any order or judgment given or made in relation thereto, the Borrowers undertake to indemnify and hold harmless the Lender from and against any loss suffered as a result of any discrepancy between (a) the rate of exchange used for such purpose to convert the sum in question from the first currency into the second currency and (b) the rate or rates of exchange at which the Lender may in the ordinary course of business purchase the first currency with the second currency upon receipt of a sum paid to it in satisfaction, in whole or in part, of any such order, judgment, claim or proof. Any amount due from the Borrowers under this clause 6.5 shall be due as a separate debt and shall not be affected by judgment being obtained for any other sums due under or in respect of any of the Security Documents and the term "rate of exchange" includes any premium and costs of exchange payable in connection with the purchase of the first currency with the second currency.

6.6 Grossing-up for Taxes - by the Borrowers

If at any time the Borrowers must make any deduction or withholding in respect of Taxes (other than a FATCA Deduction) or deduction in respect of any royalty payment, duty, assessment or other charge or otherwise from any payment due under any of the Security Documents for the account of any Bank or if the Agent or the Security Trustee must make any deduction or withholding from a payment to another Bank or withholding in respect of Taxes from any payment due under any of the Security Documents, the sum due from the Borrowers in respect of such payment must then be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the relevant Bank receives on the due date for such payment (and retains, free from any liability in respect of such deduction or withholding), a net sum equal to the sum which it would have received had no such deduction or withholding been made and the Borrowers agree to indemnify each Bank

on demand against any losses or costs certified by such Bank to have been incurred by it by reason of any failure of the Borrowers to make any such deduction or withholding or by reason of any increased payment not being made on the due date for such payment Provided however that if any Bank or the Agent or the Security Trustee shall be or become entitled to any Tax credit or relief in respect of any Tax which is deducted from any payment by the Borrowers and it actually receives a benefit from such Tax credit or relief in its country of domicile, incorporation or residence, the relevant Bank or the Agent or the Security Trustee, as the case may be, shall, subject to any laws or regulations applicable thereto, pay to the Borrowers after such benefit is effectively received by the relevant Bank or the Agent or the Security Trustee, as the case may be, such amounts (which shall be conclusively certified by the Agent) as shall ensure that the net amount actually retained by the relevant Bank or the Agent or the Security Trustee, as the case may be, is equal to the amount which would have been retained if there had been no such deduction **provided that** (i) nothing in this clause shall prevent the Banks from arranging their respective tax affairs in whichever manner they deem suitable, (ii) the declaration by any Bank of a rebate shall be conclusive and binding and (iii) no Bank shall be required to disclose its tax affairs to the Borrowers. The Borrowers must promptly deliver to the Agent any receipts, certificates or other proof evidencing the amounts (if any) paid or payable in respect of any deduction or withholding as aforesaid.

6.7 Grossing-up for Taxes - by the Lenders

If at any time a Lender must make any deduction or withholding in respect of Taxes from any payment due under any of the Security Documents for the account of the Agent or the Security Trustee, the sum due from such Lender in respect of such payment must be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the Agent or, as the case may be, the Security Trustee receives on the due date for such payment (and retains free from any liability in respect of such deduction or withholding) a net sum equal to the sum which it would have received had no such deduction or withholding been required to be made and each Lender must indemnify the Agent and the Security Trustee against any losses or costs incurred by it by reason of any failure of such Lender to make any such deduction or withholding or by reason of any increased payment not being made on the due date for such payment.

6.8 Loan account

Each Lender shall maintain, in accordance with its usual practice, an account evidencing the amounts from time to time lent by, owing to and paid to it under the Security Documents. The Agent and/or the Security Trustee shall maintain a control account showing the Loan, the Advances and other sums owing by the Borrowers under the Security Documents and all payments in respect thereof being made from time to time. The control account shall, in the absence of manifest error, be conclusive as to the amount from time to time owing by the Borrowers under the Security Documents.

6.9 Agent may assume receipt

Where any sum is to be paid under the Security Documents to the Agent or, as the case may be, the Security Trustee for the account of another person, the Agent or, as the case may be, the Security Trustee may assume that the payment will be made when due and the Agent or, as the case may be, the Security Trustee may (but shall not be obliged to) make such sum available to the person so entitled. If it proves to be the case that such payment was not made to the Agent or, as the case may be, the Security Trustee, then the person to whom such sum was so made available must on request refund such sum to the Agent or, as the case may be,

the Security Trustee together with interest thereon sufficient to compensate the Agent or, as the case may be, the Security Trustee for the cost of making available such sum up to the date of such repayment and the person by whom such sum was payable must indemnify the Agent or, as the case may be, the Security Trustee for any and all loss or expense which the Agent or, as the case may be, the Security Trustee may sustain or incur as a consequence of such sum not having been paid on its due date.

6.10 Partial payments

If, on any date on which a payment is due to be made by the Borrowers under any of the Security Documents (the “**due amount**”), the amount received by the Agent from the Borrowers on such date is less than the full due amount then, without prejudice to any rights or remedies available to the Agent, the Security Trustee, the Security Trustee and the Lenders under any of the Security Documents, the Agent must apply the amount actually received from the Borrowers in or towards discharge of the obligations of the Borrowers under the Security Documents in the following order, notwithstanding any appropriation made, or purported to be made, by the Borrowers:

- 6.10.1 first, in or towards payment, on a pro-rata basis, of any unpaid costs and expenses of the Banks or any of them under any of the Security Documents;
- 6.10.2 secondly, in or towards payment of any fees payable to the Arranger, the Agent or any of the other Banks under, or in relation to, the Security Documents which remain unpaid;
- 6.10.3 thirdly, in or towards payment to the Lenders, on a pro rata basis, of any accrued interest owing in respect of the Loan which shall have become due under any of the Security Documents but remains unpaid;
- 6.10.4 fourthly, in or towards payment to the Lenders, on a pro rata basis according to their respective Contributions, of any principal in respect of the Loan which shall have become due and payable but remains unpaid;
- 6.10.5 fifthly, in or towards payment to the Lenders, on a pro rata basis, for any loss suffered by reason of any such payment in respect of principal not being effected on an Interest Payment Date relating to the part of the Loan repaid and which amounts are so payable under this Agreement; and
- 6.10.6 sixthly in or towards payment to the relevant person of any other sum which shall have become due under any of the Security Documents but remains unpaid (and, if more than one such sum so remains unpaid, on a pro rata basis).

The order of application set out in clauses 6.10.1 to 6.10.6 may be varied by the Agent if the Majority Lenders so direct, without any reference to, or consent or approval from, the Borrowers.

6.11 FATCA

- 6.11.1 Subject to clause 6.11.3 below, each Party shall, within ten (10) Banking Days of a reasonable request by another Party:
 - (a) confirm to that other Party whether it is:
 - (i) a FATCA Exempt Party; or

- (ii) not a FATCA Exempt Party; and
 - (b) supply to that other Party such forms, documentation and other information relating to its status under FATCA (including its applicable passthru percentage or other information required under the Treasury Regulations or other official guidance including intergovernmental agreements) as that other Party reasonably requests for the purposes of that other Party's compliance with FATCA.
- 6.11.2 If a Party confirms to another Party pursuant to clause 6.11.1(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.
- 6.11.3 Clause 6.11.1(a) above shall not oblige any Bank to do anything which would or might in its reasonable opinion constitute a breach of:
 - (a) any law or regulation;
 - (b) any policy of such Bank;
 - (c) any fiduciary duty; or
 - (d) any duty of confidentiality.
- 6.11.4 If a Party fails to confirm its status or to supply forms, documentation or other information requested in accordance with clause 6.11.1(a) above (including, for the avoidance of doubt, where clause 6.11.3 above applies), then:
 - (a) if that Party failed to confirm whether it is (and/or remains) a FATCA Exempt Party then such Party shall be treated for the purposes of the Security Documents as if it is not a FATCA Exempt Party; and
 - (b) if that Party failed to confirm its applicable passthru percentage then such Party shall be treated for the purposes of the Security Documents (and payments made thereunder) as if its applicable passthru percentage is 100%,until (in each case) such time as the Party in question provides the requested confirmation, forms, documentation or other information.
- 6.12 **Gross-up in the event of a FATCA Deduction – Borrowers**
- 6.12.1 If a Borrower is required to make a FATCA Deduction, that Borrower shall make that FATCA Deduction and any payment required in connection with that FATCA Deduction within the time allowed and in the minimum amount required by FATCA;
- 6.12.2 if a FATCA Deduction is required to be made by a Borrower, the amount of the payment due from that Borrower shall be increased to an amount which (after making any FATCA Deduction) leaves an amount equal to the payment which would have been due if no FATCA Deduction had been required;
- 6.12.3 each Borrower 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 a FATCA Deduction) notify the Party to whom it is making the payment and, in addition, shall notify the Agent and the Agent shall notify the other Banks; and

- 6.12.4 within thirty days of making either a FATCA Deduction or any payment required in connection with that FATCA Deduction, the relevant Borrower shall deliver to the Agent evidence satisfactory to the Agent that the FATCA Deduction has been made or (as applicable) any appropriate payment paid to the relevant governmental or taxation authority.

7 REPRESENTATIONS AND WARRANTIES

7.1 Continuing representations and warranties

The Borrowers represent and warrant to each Bank that:

7.1.1 Due incorporation

each of the Security Parties is duly incorporated and validly existing in good standing, under the laws of its respective country of incorporation, in each case, as a corporation and has power to carry on its respective businesses as it is now being conducted and to own their respective property and other assets to which it has unencumbered legal and beneficial title except as disclosed to the Agent in writing;

7.1.2 Corporate power

each of the Security Parties has power to execute, deliver and perform its obligations and, as the case may be, to exercise its rights under the Underlying Documents and the Security Documents to which it is a party; all necessary corporate, shareholder and other action has been taken to authorise the execution, delivery and on the execution of the Security Documents performance of the same and no limitation on the powers of the Borrowers to borrow or any other Security Party to howsoever incur liability and/or to provide or grant security will be exceeded as a result of borrowing any part of the Loan;

7.1.3 Binding obligations

the Underlying Documents and the Security Documents, when executed, will constitute valid and legally binding obligations of the relevant Security Parties and the Managers enforceable in accordance with their respective terms;

7.1.4 No conflict with other obligations

the execution and delivery of, the performance of their obligations under, and compliance with the provisions of, the Underlying Documents and the Security Documents by the relevant Security Parties and the Managers will not (i) contravene any existing applicable law, statute, rule or regulation or any judgment, decree or permit to which any Security Party or other member of the Group or any Manager is subject, (ii) conflict with, or result in any breach of any of the terms of, or constitute a default under, any agreement or other instrument to which any Security Party or any other member of the Group or any Manager is a party or is subject or by which it or any of its property is bound, (iii) contravene or conflict with any provision of the constitutional documents of any Security Party, any Manager or (iv) result in the creation or imposition of, or oblige any of the Security Parties or the Managers to create, any Encumbrance (other than a Permitted Encumbrance) on any of the undertakings, assets, rights or revenues of any of the Security Parties or the Managers;

7.1.5 No default

no Default has occurred;

- 7.1.6 No litigation or judgments
- no Proceedings are current, pending or, to the knowledge of the officers of any Borrower, threatened against any of the Security Parties, the Managers or any other Group Members or their assets which could have a Material Adverse Effect and there exist no judgments, orders, injunctions which would materially affect the obligations of the Security Parties, the Managers under the Security Documents;
- 7.1.7 No filings required
- except for the registration of the Mortgages in the relevant register under the laws of the relevant Flag State through the relevant Registry, it is not necessary to ensure the legality, validity, enforceability or admissibility in evidence of any of the Underlying Documents or any of the Security Documents that they or any other instrument be notarised, filed, recorded, registered or enrolled in any court, public office or elsewhere in any Pertinent Jurisdiction or that any stamp, registration or similar tax or charge be paid in any Pertinent Jurisdiction on or in relation to any of the Underlying Documents or the Security Documents and each of the Underlying Documents and the Security Documents is in proper form for its enforcement in the courts of each Pertinent Jurisdiction;
- 7.1.8 Required Authorisations and legal compliance
- all Required Authorisations have been obtained or effected and are in full force and effect and none of the Security Party or the Managers has in any way contravened any applicable law, statute, rule or regulation (including all such as relate to Money Laundering);
- 7.1.9 Choice of law
- the choice of English law to govern the Underlying Documents and the Security Documents (other than the Mortgages, the Accounts Pledge), the choice of the law of the Flag State to govern the Mortgages, the choice of Cyprus law to govern the Accounts Pledge and the submissions by the Security Parties and the Managers to the jurisdiction of the English courts and the obligations of such Security Parties and the Managers associated therewith, are valid and binding;
- 7.1.10 No immunity
- no Security Party nor any of their assets is entitled to immunity on the grounds of sovereignty or otherwise from any Proceedings whatsoever;
- 7.1.11 Financial statements correct and complete
- the latest audited and unaudited consolidated financial statements of the Corporate Guarantor in respect of the relevant financial year as delivered to the Agent present or will present fairly and accurately the financial position of the Corporate Guarantor and the consolidated financial position of the Group as at the date thereof and the results of the operations of the Corporate Guarantor and the consolidated results of the operations of the Group for the financial year ended on such date and, as at such date, neither the Corporate Guarantor nor any of its subsidiaries have any significant liabilities (contingent or otherwise) or any unrealised or anticipated losses which are not disclosed by, or reserved against or provided for in, such financial statements;

- 7.1.12 **Pari passu**
the obligations of the Borrowers under this Agreement are direct, general and unconditional obligations of the Borrowers and rank at least pari passu with all other present and future unsecured and unsubordinated Indebtedness of the Borrowers except for obligations which are mandatorily preferred by operation of law and not by contract;
- 7.1.13 **Information/ Material Adverse Effect**
all information, whatsoever provided by any Security Party to the Agent in connection with the negotiation and preparation of the Security Documents or otherwise provided hereafter in relation to, or pursuant to this Agreement is, or will be, true and accurate in all material respects and not misleading, does or will not omit material facts and all reasonable enquiries have been, or shall have been, made to verify the facts and statements contained therein and there has not occurred any event which could have a Material Adverse Effect on any Security Party since such information was provided to the Agent; there are, or will be, no other facts the omission of which would make any fact or statement therein misleading;
- 7.1.14 **No withholding Taxes**
no Taxes anywhere are imposed whatsoever by withholding or otherwise on any payment to be made by any Security Party under the Underlying Documents or the Security Documents to which such Security Party is or is to be a party or are imposed on or by virtue of the execution or delivery by the Security Parties of the Underlying Documents or the Security Documents or any other document or instrument to be executed or delivered under any of the Security Documents;
- 7.1.15 **Use of proceeds**
the Borrowers shall apply the Loan only for the purposes specified in clauses 1.1 and 2.1;
- 7.1.16 **The Mortgaged Vessels**
throughout the Facility Period, each Mortgaged Vessel will be :
- (a) in the absolute sole, legal and beneficial ownership of the relevant Owner;
 - (b) registered through the offices of the relevant Registry as a ship under the laws and flag of the relevant Flag State;
 - (c) in compliance with the ISM Code and the ISPS Code and operationally seaworthy and in every way fit for service;
 - (d) in good and sea-worthy and cargo-worthy condition; and
 - (e) classed with the relevant Classification free of all overdue requirements and recommendations of the relevant Classification Society;
- 7.1.17 **Mortgaged Vessels' employment**
except with the prior written consent of the Majority Lenders, there will not be any agreement or arrangement in respect of the employment of any Mortgaged Vessel whereby the Earnings of any Mortgaged Vessel may be shared howsoever with any other person except (a) for customary profit sharing arrangements under a charterparty or if (i) the aggregate Earnings of the Mortgaged Vessels are sufficient to cover the aggregate of the Borrowers' payment obligations under this Agreement and vessel operating expenses as they fall due and (ii) no Event of Default has occurred which is continuing;

7.1.18 Freedom from Encumbrances

no Mortgaged Vessel nor its Earnings, Insurances or Requisition Compensation nor the Earnings Accounts, the Retention Account nor any Extended Employment Contract in respect of such Mortgaged Vessel nor any other properties or rights which are, or are to be, the subject of any of the Security Documents nor any part thereof will be subject to any Encumbrance except Permitted Encumbrances or Permitted Liens;

7.1.19 Environmental Matters

except as may already have been disclosed by the Borrowers in writing to, and acknowledged and accepted in writing by, the Agent:

- (a) the Borrowers and, to the best of the Borrowers' knowledge and belief (having made due enquiry), their respective Environmental Affiliates, have complied with the provisions of all Environmental Laws;
- (b) the Borrowers and, to the best of the Borrowers' knowledge and belief (having made due enquiry), their respective Environmental Affiliates have obtained all Environmental Approvals and are in compliance with all such Environmental Approvals;
- (c) no Environmental Claim has been made or threatened or pending against any Borrower, or, to the best of the Borrowers' knowledge and belief (having made due enquiry), any of their respective Environmental Affiliates; and
- (d) there has been no Environmental Incident;

7.1.20 ISM and ISPS Code

each of the Borrowers has complied with and continues to comply and has procured that the relevant Manager has complied with and continues to comply with the ISM Code, the ISPS Code and all other statutory and other requirements relative to its business and in particular each Borrower or the relevant Manager has obtained and maintains a valid DOC and SMC for each Mortgaged Vessels and that it and the relevant Manager has implemented and continues to implement an ISM SMS;

7.1.21 Copies true and complete

the Certified Copies or originals of the Underlying Documents delivered or to be delivered to the Agent pursuant to clause 8.1 are, or will when delivered be, true and complete copies or, as the case may be, originals of such documents; and such documents constitute valid and binding obligations of the parties thereto enforceable in accordance with their respective terms and there have been no amendments or variations thereof or defaults thereunder;

7.1.22 Ownership of Borrowers

all the shares in each Borrower are legally and beneficially owned by the Shareholder;

- 7.1.23 Beneficiary of Loan
the Borrowers are the ultimate beneficiaries of the Loan;
- 7.1.24 Indebtedness
no Security Party has incurred any Indebtedness save under this Agreement or as otherwise disclosed in writing to, and acknowledged and accepted in writing by, the Agent or as disclosed in the Group's public filings;
- 7.1.25 Filings
each of the Corporate Guarantor and the Borrowers has filed all tax and other fiscal returns required to be filed by any tax authority to which it is subject or have timely received extensions from the relevant authority habilitated to provide such extension;
- 7.1.26 Office
no Borrower has an office in England or the USA;
- 7.1.27 Sanctions
- (a) no Borrower nor any Security Party nor any Manager:
 - (i) is a Sanctions Restricted Person;
 - (ii) owns or controls directly or indirectly a Sanctions Restricted Person; or
 - (iii) has a Sanctions Restricted 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 to the knowledge of the Borrowers (after reasonable enquiry) indirectly, to or for the benefit of a Sanctions Restricted Person contrary to Sanctions or for transactions in a Sanctions Restricted Jurisdiction nor shall they be otherwise directly or indirectly, applied in a manner or for a purpose prohibited by Sanctions; and
 - (c) each Borrower and each other Security Party and each Managers are in compliance with Sanctions;
- 7.1.28 Insolvency
no Borrower is unable or has admitted inability to pay its debts as they fall due, has suspended making payments on any of its debts or has announced an intention to do so, is or has become insolvent; or, save as disclosed to the Lenders prior to the Execution Date, or has suffered the declaration of a moratorium in respect of any of its Indebtedness;
- 7.1.29 No business
no Borrower has undertaken any business or employed any person or incurred any obligations in respect of any pension scheme, save in respect of the Master, officers and crew of the Vessel owned by it;

7.1.30 **FATCA**

none of the Security Parties is a FATCA FFI or a US Tax Obligor;

7.1.31 **Manager**

each of the Managers is fit and proper commercial and technical manager of the Vessels with the sufficient and fully trained personnel, experience and ability to perform its obligations in accordance with all applicable laws and regulations and in accordance with first class international ship management practice;

7.1.32 **Compliance policies and procedures**

each Borrower, the Corporate Guarantor and each other Security Party or Group Member, each of the Managers has in place and effect policies and procedures designed to promote material compliance by each of them, their subsidiaries and their respective directors, managers, officers, employees and agents with Sanctions and Anti-Corruption Laws; and

7.1.33 **Anti-Money Laundering**

in relation to the borrowing by the Borrowers of an Advance, the performance and discharge of their obligations and liabilities under the Security Documents, and the transactions and other arrangements affected or contemplated by the Security Documents to which any Borrower is a party, each Borrower confirms that:

- (a) it is acting for its own account;
- (b) it will use the proceeds of its Advance for its own benefit, under its full responsibility and exclusively for the purposes specified in this Agreement; and
- (c) the foregoing will not involve or lead to a contravention of any law, official requirement or other regulatory measure or procedure implemented to combat Money Laundering and comparable United States federal and state laws, including without limitation the PATRIOT Act and the Bank Secrecy Act.

7.2 **Repetition of representations and warranties**

On each day throughout the Facility Period, the Borrowers shall be deemed to repeat the representations and warranties in clause 7 updated mutatis mutandis as if made with reference to the facts and circumstances existing on such day.

8 **UNDERTAKINGS**

8.1 **General**

Each Borrower undertakes with each Bank that, from the Execution Date until the end of the Facility Period, it will:

8.1.1 **Notice of Default and Proceedings**

promptly inform the Agent of:

- (a) any Default and of any other circumstances or occurrence which might adversely affect the ability of any Security Party or any Manager to perform its obligations under any of the Security Documents;

- (b) as soon as the same is instituted or threatened, details of any Proceedings involving any Security Party or any Manager which could have a Material Adverse Effect on that Security Party and/or the operation of any of the Vessels (including, but not limited to any Total Loss of a Vessel or the occurrence of any Environmental Incident);
- (c) to the extent permitted by law, details of any claim, action, suit, proceedings or investigation against it with respect to Sanctions by any Sanctions Authority,

and will from time to time, if so requested by the Agent, confirm to the Agent in writing that, save as otherwise stated in such confirmation, no Default has occurred and is continuing and no such Proceedings are on foot or threatened and no such claim, action, suit, proceedings or investigation with respect to Sanctions are on foot or threatened;

8.1.2 Authorisation

obtain or cause to be obtained, maintain in full force and effect and comply fully with all Required Authorisations, provide the Agent with Certified Copies of the same and do, or cause to be done, all other acts and things which may from time to time be necessary or desirable under any applicable law (whether or not in the Pertinent Jurisdiction) for the continued due performance of all the obligations of the Security Parties under each of the Security Documents;

8.1.3 Corporate Existence/Ownership

ensure that each Security Party maintains its corporate existence as a body corporate duly organised and validly existing and in good standing under the laws of the Pertinent Jurisdiction and ensure that each Borrower is owned and controlled, directly or through other companies, by the Corporate Guarantor;

8.1.4 Use of proceeds

use the Advances exclusively for the purposes specified in clauses 1.1 and 2.1;

8.1.5 Pari passu

ensure that their obligations under this Agreement shall at all times rank at least pari passu with all their other present and future unsecured and unsubordinated Indebtedness with the exception of any obligations which are mandatorily preferred by law and not by contract;

8.1.6 Financial statements

send to the Agent (or procure that is sent):

- (a) as soon as possible, but in no event later than 180 days after the end of each of its Financial Years, annual audited (prepared in accordance with US GAAP by a firm of accountants acceptable to the Agent) consolidated balance sheet and profit and loss accounts of the Corporate Guarantor and all companies which are owned, directly or indirectly, or controlled by it (commencing with the Financial Year ending 31 December 2020); and

- (b) as soon as possible, but in no event later than 90 days after the end of each financial quarter (but excluding the last financial quarter in respect of which paragraph (a) above shall apply) in each of its Financial Years, the Corporate Guarantor's unaudited consolidated balance sheet and profit and loss accounts for that financial quarter certified as to their correctness by its chief financial officer (commencing with the financial quarter ending 30 June 2020);

8.1.7 Compliance Certificates

deliver to the Agent together with each set of financial statements delivered pursuant to clauses 8.1.6 (a) and (b) as the case may be, a Compliance Certificate together with such supporting information as the Agent may require, and each Compliance Certificate shall, amongst other things, set out (in reasonable detail) computations as to compliance with the relevant clauses of this Agreement;

8.1.8 Provision of further information

provide the Agent, and procure that the Corporate Guarantor provides the Agent, with such financial or other information concerning the Borrowers, the Corporate Guarantor, the other Group Members and their respective affairs, activities, financial standing, Indebtedness and operations and the performance of the Mortgaged Vessels and any other ship owned by any Group Member or managed by the Managers (other than the Third Party Manager) as the Agent or any Lender (acting through the Agent) may from time to time reasonably require and upon request therefor provide to the Agent information of any significant nature in respect of a Borrower and/or any other Group Member including, but not limited to, details of any loans borrowed or repaid by any of them, the purchase or sale of any substantial assets (including ships) by any of them and/or the restructuring of any loan of which any of them is a borrower, and all other documentation and information as the Agent or any Lender (acting through the Agent) may from time to time require in order to comply with its, and all other relevant, know-your-customer regulations;

8.1.9 Obligations under Security Documents

duly and punctually perform each of the obligations expressed to be imposed or assumed by them under the Security Documents and Underlying Documents and will procure that each of the other Security Parties and the Managers will, duly and punctually perform each of the obligations expressed to be assumed by it under the Security Documents and the Underlying Documents to which it is a party;

8.1.10 Compliance with ISM Code

comply with, and will procure that any Operator will comply with, and ensure that the Mortgaged Vessels and any Operator comply with the requirements of the ISM Code, including (but not limited to) the maintenance and renewal of valid certificates pursuant thereto throughout the Security Period (as defined in the Mortgages);

8.1.11 Withdrawal of DOC and SMC

immediately inform the Agent if there is any actual withdrawal of their or any Operator's DOC or the SMC of any Mortgaged Vessel;

8.1.12 Issuance of DOC and SMC

and will procure that any Operator will promptly inform the Agent of the receipt by any Borrower or any Operator of notification that its application for a DOC or any application for an SMC for any Mortgaged Vessel has been refused;

8.1.13 ISPS Code Compliance

and will procure that any Manager or any Operator will:

- (a) maintain at all times a valid and current ISSC in respect of each Mortgaged Vessel;
- (b) immediately notify the Agent in writing of any actual or threatened withdrawal, suspension, cancellation or modification of the ISSC in respect of a Mortgaged Vessel; and
- (c) procure that each Mortgaged Vessel will comply at all times with the ISPS Code;

8.1.14 Compliance with Laws, Sanctions, Anti-Corruption Laws and payment of taxes

- (a) and shall procure that each Manager (other than the Third Party Manager) will, comply with all relevant Environmental Laws, laws, statutes and regulations (including, but not limited to, laws relating to any trading prohibition imposed by the Flag State, the country of incorporation of the Borrowers or the country of nationality of any crew member of any Vessel by which such Borrower is bound), Sanctions, Anti-Corruption Laws and pay all taxes for which it is liable as they fall due provided, however, that the Borrowers shall not be required to pay and discharge, or cause to be paid and discharged, any such tax, so long as the legality thereof has been contested by them in good faith and by appropriate proceedings or other acts and they shall have set aside on their books adequate reserves with respect thereof; and
- (b) without limiting paragraph (a) above, not employ any Vessel 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 and all Environmental Laws which has or is likely to have a Material Adverse Effect, Sanctions and Anti-Corruption Laws;

8.1.15 Charters etc.

(i) deliver to the Agent a Certified Copy of each Extended Employment Contract upon its execution, (ii) forthwith on the Agent's request execute (a) a Charter Assignment in respect thereof and (b) any notice of assignment required in connection therewith and use reasonable efforts to procure the acknowledgement of any such notice of assignment by the relevant charterer (provided that any failure to procure the same shall not constitute an Event of Default) and (iii) pay all legal and other costs incurred by the Agent in connection with any such Charter Assignments, forthwith following the Agent's demand;

8.1.16 Financial Covenants of the Group

procure that, throughout the Facility Period and as evidenced by the financial statements delivered to the Agent pursuant to Clause 8.1.6:

- (a) the Liquidity of the Group shall not be less than USD500,000 multiplied by the number of vessels owned by the Corporate Guarantor or any of its subsidiaries;

- (b) the Net Total Debt divided by the Total Assets (adjusted (i) for market values of vessels owned and (ii) by deducting (A) the value of the assets relating to operating leases as defined under rule ASC 842 of the US GAAP and (B) cash (which shall have the meaning given thereto under US GAAP meaning both restricted and freely available cash) shall be less than 75%;
- (c) the ratio of EBITDA to Interest Expense shall at be at least 2 to 1; and
- (d) the Net Worth shall at all times be equal to or more than USD135,000,000;

8.1.17 Indebtedness

not incur any Indebtedness other than (i) in the ordinary course of trading the Vessels or (ii) with the prior written consent of the Lenders;

8.1.18 Subordination

ensure that all Indebtedness of any Borrower to its shareholders or to any other Group Member is fully subordinated to the Loan, and to subordinate to the Loan any Indebtedness issued to a Borrower by the Corporate Guarantor, all in a form acceptable to the Agent (acting on the instructions of the Majority Lenders); and

8.1.19 Sanctions

- (a) without limiting clause 8.1.14, procure that:
 - (i) no Vessel is used by or for the benefit of a Sanctions Restricted Person contrary to Sanctions;
 - (ii) no Vessel is used in trading in any Sanctions Restricted Jurisdiction or in any manner contrary to Sanctions;
 - (iii) no Vessel trades in any manner which would trigger the operation of any sanctions limitation or exclusion clause (or similar) in the Insurances;
- (b) not fund all or part of any payment under the Loan out of proceeds derived directly or to their knowledge (after reasonable enquiry) indirectly from any activity or transaction with a Sanctions Restricted Person, contrary to Sanctions or in a Sanctions Restricted Jurisdiction or which would otherwise cause any party to be in breach of any Sanctions;
- (c) procure that no proceeds to their knowledge (after reasonable enquiry) from activities or business with a Sanctions Restricted Person contrary to Sanctions or in a Sanctions Restricted Jurisdiction are credited to any Earnings Account;
- (d) ensure, and shall procure that each Security Party, each of the Managers will ensure, that:
 - (i) it is not a Sanctions Restricted Person;
 - (ii) it does not directly or, to its knowledge (after reasonable enquiry), indirectly hold an ownership interest in or control a Sanctions Restricted Person;

- (iii) it is not acting directly or, to its knowledge (after reasonable enquiry), indirectly for the benefit of a Sanctions Restricted Person; and
- (iv) no proceeds of any Advance shall be made available, to its knowledge (after thorough enquiry), directly or indirectly, to or for the benefit of a Sanctions Restricted Person or otherwise shall be directly or indirectly applied in a manner or for a purpose prohibited by Sanctions.

8.1.20 Delivery of reports

deliver to the Agent upon request as many Certified Copies as the Agent may reasonably require of every report, circular, notice or like document issued by any Security Party to its shareholders or creditors generally, unless the contents of such report, circular, notice or like document has already been disclosed in filings made with the US Securities and Exchange Commission;

8.1.21 Anti-Money Laundering

comply, and cause each of its subsidiaries to comply, with any applicable law, official requirement or other regulatory measure or procedure implemented to combat Money Laundering and comparable United States federal and state laws, including without limitation the PATRIOT Act and the Bank Secrecy Act.

8.1.22 Dividends

Provided that (i) no Event of Default has occurred or shall be caused thereby and (ii) no default (howsoever thereunder defined) has occurred or shall be caused thereby in respect of any Indebtedness of the Borrowers or the Corporate Guarantor, the Borrowers and the Corporate Guarantor may declare or pay dividends or distribute (in cash or in kind) any of their present or future assets, undertakings, rights or revenues.

8.2 **Security value**

8.2.1 Security shortfall

If at any time the Security Value shall be less than the Required Security Amount, the Agent (acting on the instructions of the Majority Lenders) shall give notice to the Borrowers requiring that such deficiency be remedied and then the Borrowers must either:

- (a) prepay within a period of thirty (30) days of the date of receipt by the Borrowers of the Agent's said notice such part of the Loan as will result in the Security Value after such prepayment (taking into account any other repayment of the Loan made between the date of the notice and the date of such prepayment) being equal to or higher than the Required Security Amount; or
- (b) within thirty (30) days of the date of receipt by the Borrowers of the Agent's said notice provide to the satisfaction of the Agent such further security for the Loan as shall be acceptable to the Majority Lenders having a value for security purposes (as determined by the Agent in its absolute discretion) at the date upon which such further security shall be constituted which, when added to the Security Value, shall not be less than the Required Security Amount as at such date.

The provisions of clauses 4.5 and 4.6 shall apply to prepayments under clause 8.2.1(a) provided that the Agent shall apply such prepayments (i) pro rata against the Advances, (ii) in reduction of the repayment instalments under clause 4.1 (including the Balloon Instalments) pro rata (or in such other manner and order as shall be agreed between the Borrowers and the Lenders at the time of such prepayment) and the amounts of the Loan prepaid hereunder shall not be available to be re-borrowed.

8.2.2 Valuation of Mortgaged Vessels

Each Mortgaged Vessel shall, for the purposes of this Agreement, be valued in USD by taking:

- (a) for the purpose of the drawdown of each Advance, the arithmetic mean of valuations prepared by two Approved Broker appointed by the Borrowers (provided that if the two valuations in respect of a Mortgaged Vessel obtained pursuant to this Clause 8.2.2(a) differ by at least 15 per cent. (based on the lower valuation), then a third valuation for that Mortgaged Vessel shall be obtained from a third Approved Broker and the Initial Valuation Amount of the Mortgaged Vessel shall be the arithmetic mean of all three such valuations;
- (b) at all other times, the valuation prepared by an Approved Broker appointed by the Borrowers,

each such valuation to be made without physical inspection, and on the basis of a sale for prompt delivery for cash at arms' length, on normal commercial terms, as between a willing buyer and a willing seller without taking into account the benefit or burden of any charterparty or other engagement concerning the relevant Mortgaged Vessel and to be dated no more than 14 days prior to the date the Valuation Amount is required to be determined for the purposes of this Agreement.

Valuations shall be obtained:

- (c) on 31 March, 30 June, 30 September and 30 December each year, commencing on 30 September 2020; and
- (d) (in addition to (a) above) at any other time as the Agent (acting on the reasonable instructions of the Majority Lenders) shall require.

The valuation of each Mortgaged Vessel determined in accordance with the provisions of this clause 8.2.2 shall be binding upon the Parties until such time as any further such valuation shall be obtained.

8.2.3 Information

The Borrowers undertake with the Banks to supply to the Agent and to the Approved Brokers such information concerning the relevant Mortgaged Vessel and its condition as such shipbrokers may require for the purpose of determining any Valuation Amount.

8.2.4 Costs

All costs in connection with (a) the obtaining and any determining of any Valuation Amount pursuant to clause 8.2.2(a), (b) valuations obtained following the occurrence of an Event of Default which is continuing, unremedied and unwaived and (c) any valuation either of any additional security for the purposes of ascertaining the Security Value at any time or necessitated by the Borrowers electing to constitute additional security pursuant to clause 8.2.1(b), must be paid by the Borrowers. The costs of any other valuations shall be paid by the Lenders.

8.2.5 Valuation of additional security

For the purposes of this clause 8.2, the market value (i) of any additional security over a ship (other than the Vessels) shall be determined in accordance with clause 8.2.2 and (ii) of any other additional security provided or to be provided to the Banks or any of them shall be determined by the Agent after consultation with the Lenders and the Borrowers.

8.2.6 Documents and evidence

In connection with any additional security provided in accordance with this clause 8.2, the Agent shall be entitled to receive (at the Borrowers' expense) such evidence and documents of the kind referred to in schedule 3 as may in the Agent's opinion be appropriate and such favourable legal opinions as the Agent shall in its absolute discretion require.

8.3 **Negative undertakings**

The Borrowers jointly and severally undertake with each Bank that, from the Execution Date until the end of the Facility Period, they will not, without the prior written consent of the Agent (acting on the reasonable instructions of the Majority Lenders):

8.3.1 Negative pledge

permit any Encumbrance (other than a Permitted Encumbrance) to subsist, arise or be created or extended over all or any part of their respective present or future undertakings, assets, rights or revenues to secure or prefer any present or future Indebtedness or other liability or obligation of any Group Member or any other person;

8.3.2 No merger or transfer

merge or consolidate with any other person or permit any change to the direct or indirect ownership of their shares from that existing at the Execution Date;

8.3.3 Disposals

sell, transfer, assign, create security or option over, pledge, pool, abandon, lend or otherwise dispose of or cease to exercise direct control over any part of their present or future undertaking, assets, rights or revenues (otherwise than by transfers, sales or disposals for full consideration in the ordinary course of trading) whether by one or a series of transactions related or not;

8.3.4 Other business or manager

undertake any business other than the ownership and operation of the Vessels or employ anyone other than the relevant Manager as, respectively, commercial and technical manager of the Vessels;

8.3.5 Acquisitions

acquire any further assets other than the Vessels and rights arising under contracts entered into by or on behalf of the Borrowers in the ordinary course of their businesses of owning, operating and chartering the Vessels;

- 8.3.6 Other obligations
incur any obligations (to any Group Member or otherwise) except for obligations arising under the Underlying Documents or the Security Documents or contracts entered into (or in the case of any obligation to any Group Member, reasonably entered into) in the ordinary course of their business of owning, operating and chartering the Vessels (and for the purposes of this Agreement any obligations incurred under the Management Agreements are deemed to have been reasonably incurred in the ordinary course of business);
- 8.3.7 No borrowing
incur any Borrowed Money except for Borrowed Money pursuant to the Security Documents or as otherwise disclosed in writing by the Borrowers to, and acknowledged and accepted in writing by, the Agent on or prior to the Execution Date other than Borrowed Money borrowed from its Shareholder or any other member of the Group which is fully subordinated and assigned in favour of the Security Trustee on such terms and conditions as the as the Agent and the Majority Lenders may agree in their sole discretion;
- 8.3.8 Repayment of borrowings
repay or prepay the principal of, or pay interest on or any other sum in connection with any of their Borrowed Money except for Borrowed Money pursuant to the Security Documents or as otherwise disclosed in writing by the Borrowers to, and acknowledged and accepted in writing by, the Agent on or prior to the Execution Date;
- 8.3.9 Guarantees
issue any guarantees or otherwise become directly or contingently liable or give security or quasi security for the obligations of any person, firm, or corporation except pursuant to the Security Documents and except for (i) guarantees from time to time required in the ordinary course of business and/or by any protection and indemnity or war risks association with which a Vessel is entered, guarantees required to procure the release of such Vessel from any arrest, detention, attachment or levy or guarantees required for the salvage of a Vessel and (ii) such other guarantees to which the Agent and the Majority Lenders shall have consented in writing;
- 8.3.10 Loans
make any loans or grant any credit (save for normal trade credit in the ordinary course of business) to any person or agree to do so;
- 8.3.11 Sureties
permit any Indebtedness of any Borrower to any person (other than the Banks pursuant to the Security Documents) to be guaranteed by any person (except for guarantees from time to time required in the ordinary course of business and in the ordinary course by any protection and indemnity or war risks association with which a Vessel is entered, guarantees required to procure the release of such Vessel from any arrest, detention, attachment or levy or guarantees or undertakings required for the salvage of a Vessel);

- 8.3.12 Subsidiaries
form or acquire any Subsidiaries;
- 8.3.13 Change of name, manager, flag or class
change the name, Manager (other than as contemplated by the definition of Manager), flag, Classification or Classification Society of any Vessel without the prior consent of the Lenders, such consent not to be unreasonably withheld or delayed;
- 8.3.14 Charters
without the prior written consent of the Agent and then, if such consent is given, only subject to such conditions as the Agent may impose, let or agree to let any Vessel:
- (i) on demise charter for any period; or
 - (ii) by any time or consecutive voyage charter for a term which exceeds or which by virtue of any optional extensions therein contained may exceed thirteen (13) months' duration; or
 - (iii) on terms whereby more than two (2) months' hire (or the equivalent) is payable in advance; or
 - (iv) below a fair and reasonable arms-length rate obtainable at the time when the relevant Vessel is fixed;
- 8.3.15 Nuclear waste
permit any Vessel to carry nuclear waste or radioactive material;
- 8.3.16 Change in constitutional documents
amend or vary its constitutional documents;
- 8.3.17 Employees
employ any person except the Master, officers and crew of the Vessel owned by it;
- 8.3.18 FATCA
become a FATCA FFI or a US Tax Obligor and shall procure that no Security Party shall do so;
- 8.3.19 Anti-corruption law
(and shall procure that none of the other Security Parties or Group Members will) directly or indirectly use the proceeds of the Loan for any purpose which would breach any Anti-Corruption Laws;
- 8.3.20 Accounts
open or maintain any account with any bank or financial institution other than the Earnings Accounts and the Retention Account.

Insurances undertakings

Each Borrower covenants with each Bank, and undertakes from the Execution Date until the end of the Facility Period, in respect of the Mortgaged Vessel owned by it:

(a) Insured risks, amounts and terms

to insure and keep such Mortgaged Vessel insured free of cost and expense to the Banks and in the sole name of the relevant Owner or, if so required by the Agent, in the joint names of the relevant Owner and the Security Trustee (but without liability on the part of the Security Trustee for premiums or calls):

- (i) against fire and usual marine risks (including excess risks, freight interest and hull interest) and war risks, on an agreed value basis, in such amounts (but not in any event less than the greater of the market value of such Mortgaged Vessel for the time being (as shall be determined by the Agent in accordance with clause 8.2.2) and such amount as when added to the insurance cover on the other Mortgaged Vessels, is equal to one hundred and twenty per cent (120%) of the Loan, and upon such terms as shall from time to time be approved in writing by the Agent;
- (ii) against protection and indemnity risks (including pollution risks for the highest amount in respect of which cover is or may become available for ships of the same type, size, age and flag as such Mortgaged Vessel (for the time being USD1,000,000,000) and a freight, demurrage and defence cover) for the full value and tonnage of such Mortgaged Vessel (as approved in writing by the Agent) and upon such terms as shall from time to time be approved in writing by the Agent;
- (iii) if and when so requested by the Agent, against political risks on such terms and in such amounts as shall from time to time be approved in writing by the Agent and as shall be in line with market practice prevailing at the time and in relation to the trading of such Mortgaged Vessel; and
- (iv) in respect of such other matters of whatsoever nature and howsoever arising in respect of which insurance would be maintained by a prudent owner of such Mortgaged Vessel,

and to pay to the Security Trustee the cost (as conclusively certified by the Security Trustee) of (aa) any mortgagee's interest insurance (including mortgagee's interest insurance ("MII") - additional perils (pollution) ("MAP") coverage) which the Security Trustee may from time to time effect in respect of such Mortgaged Vessel and the other Mortgaged Vessels upon such terms and in such amounts (being in any event no less than one hundred and twenty per cent (120%) of the Loan in respect of MII coverage and 110% of the Loan in respect of MAP coverage) as it shall deem desirable; and (bb) any other insurance cover which the Security Trustee may from time to time effect in respect of such Mortgaged Vessel and/or in respect of its interest and potential third party liability as mortgagee of such Mortgaged Vessel as the Security Trustee shall deem desirable having regard to any limitations in respect of amount or extent of cover which may from time to time be applicable to any of the other insurances referred to in this clause 8.4(a);

- (b) Approved Insurance Brokers, insurers and associations
to effect the insurances aforesaid in such currency as the Agent may approve and through the Approved Insurance Brokers and with such insurance companies and/or underwriters as shall from time to time be approved in writing by the Agent; provided however that the insurances against war risks and protection and indemnity risks may be effected by the entry of such Mortgaged Vessel with such war risks and protection and indemnity associations which is a member of the International Group of P&I Clubs as shall from time to time be approved in writing by the Agent;
- (c) Fleet liens, set-off and cancellation
if any of the insurances referred to in clause 8.4(a) form part of a fleet cover, to procure that the Approved Insurance Brokers shall undertake to the Security Trustee that they shall neither set off against any claims in respect of such Mortgaged Vessel any premiums due in respect of any vessel under such fleet cover which is not a Mortgaged Vessel or any premiums due for other insurances, nor cancel the insurance for reason of non-payment of premiums for any vessel under such fleet cover which is not a Mortgaged Vessel or of premiums for such other insurances, and shall undertake to issue a separate policy in respect of such Mortgaged Vessel if and when so requested by the Agent;
- (d) Payment of premiums and calls
punctually to pay all premiums, calls, contributions or other sums payable in respect of all such insurances and to produce all relevant receipts or other evidence of payment when so required by the Agent;
- (e) Renewal
at least fourteen (14) days before the relevant policies, contracts or entries expire, to notify the Agent of the names of the brokers and/or the war risks and protection and indemnity associations proposed to be employed by the relevant Owner or any other party for the purposes of the renewal of such insurances and of the amounts in which such insurances are proposed to be renewed and the risks to be covered and, subject to compliance with any requirements of the Agent pursuant to this clause 8.4, to procure that appropriate instructions for the renewal of such Insurances on the terms so specified are given to the Approved Insurance Brokers and/or to the approved war risks and protection and indemnity associations at least ten (10) days before the relevant policies, contracts or entries expire, and that the Approved Insurance Brokers and/or the approved war risks and protection and indemnity associations will at least seven (7) days before such expiry (or within such shorter period as the Agent may from time to time agree) confirm in writing to the Agent as and when such renewals have been effected in accordance with the instructions so given;
- (f) Guarantees
to arrange for the execution and delivery of such guarantees or indemnities as may from time to time be required by any protection and indemnity or war risks association;

- (g) Hull policy documents, notices, loss payable clauses and brokers' undertakings
to deposit with the Approved Insurance Brokers (or procure the deposit of) all slips, cover notes, policies, certificates of entry or other instruments of insurance from time to time issued in connection with such of the insurances referred to in clause 8.4(a) as are effected through the Approved Insurance Brokers and procure that the interest of the Security Trustee shall be endorsed thereon by incorporation of the relevant Loss Payable Clause and, where the insurances have been assigned to the Security Trustee, by means of a Notice of Assignment of Insurances (signed by the relevant Owner and by any other assured who shall have assigned its interest in the insurances to the Security Trustee) and that the Agent shall be furnished with pro forma copies thereof and a letter or letters of undertaking from the Approved Insurance Brokers in such form as shall from time to time be required by the Agent;
- (h) Associations' loss payable clauses, undertakings and certificates
to procure that any protection and indemnity and/or war risks associations in which such Mortgaged Vessel is for the time being entered shall endorse the relevant Loss Payable Clause on the relevant certificate of entry or policy and shall furnish the Agent with a copy of such certificate of entry or policy and a letter or letters of undertaking in such form as may from time to time be required by the Agent;
- (i) Extent of cover and exclusions
to take all necessary action and comply with all requirements which may from time to time be applicable to the Insurances (including, without limitation, the making of all requisite declarations within any prescribed time limits and the payment of any additional premiums or calls) so as to ensure that the Insurances are not made subject to any exclusions or qualifications to which the Agent have not given their prior written consent and are otherwise maintained on terms and conditions from time to time approved in writing by the Agent;
- (j) Correspondence with brokers and associations
to provide to the Agent, forthwith upon this request, copies of all material written communications between the relevant Owner and the Approved Insurance Brokers and approved war risks and protection and indemnity associations which relate to compliance with requirements from time to time applicable to the Insurances including, without limitation, all requisite declarations and payments of additional premiums or calls referred to in clause 8.4(d);
- (k) Independent report
if so requested by the Agent, but at the cost of the Borrowers, to furnish the Agent from time to time with a detailed report signed by an independent firm of marine insurance brokers appointed by the Agent dealing with the insurances maintained on such Mortgaged Vessel and stating the opinion of such firm as to the adequacy thereof;
- (l) Collection of claims
to do all things necessary and provide all documents, evidence and information to enable the Security Trustee to collect or recover any moneys which shall at any time become due in respect of the Insurances;

- (m) Employment of Mortgaged Vessel
not to employ such Mortgaged Vessel or suffer such Mortgaged Vessel to be employed otherwise than in conformity with the terms of the Insurances (including any warranties express or implied therein) without first obtaining the consent of the insurers to such employment and complying with such requirements such as to extra premium or otherwise as the insurers may prescribe;
- (n) Application of recoveries
to apply all sums receivable under the Insurances which are paid to the relevant Owner in accordance with the Loss Payable Clauses in repairing all damage and/or in discharging the liability in respect of which such sums shall have been received; and
- (o) Named assureds
not to permit the fire and usual marine risks and war risk insurances referred to in Clause 8.4(a) to be effected in the name of any other person (other than the Security Trustee) unless such person has to the satisfaction of the Agent executed a first priority assignment in favour of the Security Trustee of such person's interest in the Insurances of such Mortgaged Vessel in similar terms (mutatis mutandis) to the General Assignment relating thereto.

8.5 Vessel undertakings

Each Borrower undertakes with each Bank that, from the Execution Date until the end of the Facility Period, it will, in respect of the Mortgaged Vessel owned by it:

8.5.1 Ship's name and registration

not change the name of such Mortgaged Vessel and to keep such Mortgaged Vessel registered with the relevant Registry under the laws of its Flag State and not do or suffer to be done anything, or omit to do anything the doing or omission of which could or might result in such registration being forfeited or imperilled or which could or might result in such Mortgaged Vessel being required to be registered otherwise than with the relevant Registry and not register such Mortgaged Vessel or permit its registration under any other flag or at any other port without the prior written consent of the Agent, such consent not to be unreasonably withheld or delayed;

8.5.2 Repair

keep such Mortgaged Vessel in a good and efficient state of repair and procure that all repairs to or replacement of any damaged, or lost parts of equipment are effected in such manner (both as regards workmanship and quality of materials) as not to diminish the value of such Mortgaged Vessel;

8.5.3 Modification; removal of parts; equipment owned by third parties

not without the prior written consent of the Agent to or suffer any other person:

- (a) make any modification to such Mortgaged Vessel in consequence of which her structure, type or performance characteristics could or might be materially altered or her value materially reduced; or

- (b) remove any material part of such Mortgaged Vessel or any equipment the value of which is such that its removal from such Mortgaged Vessel would materially reduce the value of such Mortgaged Vessel without replacing the same with equivalent parts or equipment which are owned by the relevant Owner free from Encumbrances; or
- (c) install on such Mortgaged Vessel any equipment owned by a third party which cannot be removed without causing material damage to the structure or fabric of such Mortgaged Vessel;

8.5.4 Maintenance of class; compliance with regulations

maintain the Classification as the class of such Mortgaged Vessel and to comply with and ensure that such Mortgaged Vessel at all times complies with the provisions of all relevant legislations and all regulations and requirements (statutory or otherwise) from time to time applicable to vessels registered under the laws and flag of the Flag State or otherwise applicable to such Mortgaged Vessel and it shall procure that the relevant Classification Society shall make available to the Agent upon its request such information and documents in respect of such Mortgaged Vessel as are maintained in the records of such Classification Society;

8.5.5 Surveys

submit such Mortgaged Vessel to continuous surveys and such periodical or other surveys as may be required for classification purposes and if so required to supply to the Agent copies of all survey reports issued in respect thereof;

8.5.6 Inspection

permit the Agent, upon receipt of at least 15 days written notice, by surveyors or other persons appointed by it for such purpose, to board such Mortgaged Vessel once per calendar year or at any time after the occurrence of an Event of Default which is continuing, provided in each case that the Agent shall use reasonable endeavours to ensure that such inspections or surveys shall not interfere with the operation of such Mortgaged Vessel for the purpose of inspecting her and to afford all proper facilities for such inspections and for this purpose to give the Agent reasonable advance notice of any intended drydocking of such Mortgaged Vessel (whether for the purpose of classification, survey or otherwise) and to pay the costs in respect of each such inspection or survey;

8.5.7 Prevention of and release from arrest

when they fall due. pay and discharge all debts, damages, liabilities and outgoings whatsoever which have given or there are reasonable grounds to expect that they may give rise to maritime, statutory or possessory liens on, or claims enforceable against, such Mortgaged Vessel, her Earnings or Insurances or any part thereof and, in the event of a writ or libel being filed against such Mortgaged Vessel or her Earnings or Insurances or any part thereof, or of any of the same being arrested, attached or levied upon pursuant to legal process or purported legal process or in the event of detention of such Mortgaged Vessel in exercise or purported exercise of any such lien or claim as aforesaid, to procure the release of such Mortgaged Vessel, her Earnings and Insurances from such arrest, detention attachment or levy or, as the case may be, the discharge of the writ or libel forthwith upon the relevant Owner receiving notice thereof (or, in the case of an arrest of such Mortgaged Vessel, within 15 days thereof) by providing bail or procuring the provision of security or otherwise as the circumstances may require;

8.5.8 Employment

not employ such Mortgaged Vessel or permit her employment in any manner, trade or business which is forbidden by laws of the Flag State or international law, or which is unlawful or illicit under the law of any relevant jurisdiction, or in carrying illicit or prohibited goods, or in any manner whatsoever which may render her liable to condemnation in a prize court, or to destruction, seizure, confiscation, penalty or sanctions and, in the event of hostilities in any part of the world (whether war be declared or not), not employ such Mortgaged Vessel or permit her employment in carrying any contraband goods, or enter or trade to or to continue to trade in any zone which is declared a war zone by any Government Entity or by such Mortgaged Vessel's war risks insurers unless the prior written consent of such Mortgaged Vessel's war risks insurers is obtained and such special insurance cover as such Mortgaged Vessel's war risks insurers may require shall have been effected by the relevant Owner at its expense;

8.5.9 Vessel information

provide the Agent promptly on request with all such information as it may from time to time require in relation to such Mortgaged Vessel, her Insurances, her employment, position and engagements, particulars of all towages and salvages, and copies of all charters and other contracts for her employment, or otherwise howsoever concerning her, as well as copies of all original class records held by the Classification Society in relation to such Mortgaged Vessel, all reports of port state control inspections of such Mortgaged Vessel and information on the financial and operating performance of such Mortgaged Vessel in such form as the Agent may approve or require and all such information as it may from time to time require to determine the Valuation Amount of such Mortgaged Vessel in accordance with clause 8.2.2;

8.5.10 Notification of certain events

notify the Agent forthwith by fax thereafter confirmed by letter of:

- (a) any damage to such Mortgaged Vessel requiring repairs the cost of which will or might exceed the Casualty Amount; or
- (b) any occurrence in consequence of which such Mortgaged Vessel has or may become a Total Loss; or
- (c) any requisition of such Mortgaged Vessel for hire; or

- (d) any requirement or recommendation made by any insurer or Classification Society or by any competent authority which is not, or cannot be, complied with in accordance with its terms; or
- (e) any arrest or detention of such Mortgaged Vessel of over 5 Banking Days or any exercise of a lien or other claim on such Mortgaged Vessel or her Earnings or Insurances or any part thereof; or
- (f) any petition or notice of meeting to consider any resolution to wind-up the relevant Owner (or any event analogous thereto under the laws of the place of its incorporation); or
- (g) the occurrence of any Default; or
- (h) the occurrence of any Environmental Claim against the relevant Owner, such Mortgaged Vessel, the Manager or any Group Member or the Corporate Guarantor or any incident, event or circumstance which may give rise to any such Environmental Claim; or
- (i) any other matter, event or incident, actual or threatened, the effect of which will or could lead to the ISM Code and or the ISPS Code not being complied with;

8.5.11 Payment of outgoings and evidence of payments

promptly pay all tolls, dues and other outgoings whatsoever in respect of such Mortgaged Vessel and her Earnings and Insurances and to keep proper books of account in respect of such Mortgaged Vessel and her Earnings and, as and when the Agent may so require, to make such books available for inspection on behalf of the Agent;

8.5.12 Encumbrances

not without the prior written consent of the Agent (and then only subject to such conditions as the Agent may impose) hypothecate, create or purport or agree to create or permit to arise or subsist any Encumbrance (other than Permitted Encumbrances or Permitted Liens) over or in respect of such Mortgaged Vessel, any share or interest therein or in the Insurances, Earnings or Requisition Compensation or any part thereof or interest therein other than to or in favour of the Security Trustee;

8.5.13 Sale or other disposal

not without the prior written consent of the Agent (and then only subject to such conditions as the Agent may impose) sell, agree to sell, transfer, abandon or otherwise dispose of such Mortgaged Vessel or any share or interest therein;

8.5.14 Chartering

not without the prior written consent of the Agent (which the Agent shall have full liberty to withhold) and, if such consent is given, only subject to such conditions as the Agent may impose, let such Mortgaged Vessel:

- (a) on demise charter for any period; or

- (b) save for the Approved Charter, by any time or consecutive voyage charter for a term which exceeds or which by virtue of any optional extensions therein contained may exceed twenty four (24) months' duration; or
- (c) on terms whereby more than two (2) months' hire (or the equivalent) is payable in advance; or
- (d) below a fair and reasonable arms-length rate obtainable at the time when such Mortgaged Vessel is fixed;

8.5.15 Payment of Earnings

to procure that the Earnings are paid to the Security Trustee at all times if and when the same shall be or shall have become so payable in accordance with the Security Documents after the Security Trustee shall have directed pursuant to clause 2.1.1 of the General Assignment that the same shall be no longer receivable by the relevant Owner and that any Earnings which are so payable and which are in the hands of the relevant Owner's brokers or agents are duly accounted for and paid over to the Security Trustee forthwith on demand;

8.5.16 Repairers' liens

not without the previous consent in writing of the Agent put such Mortgaged Vessel into the possession of any person for the purpose of work being done upon her in an amount exceeding or likely to exceed the Casualty Amount unless such person shall first have given to the Agent in terms satisfactory to them, a written undertaking not to exercise any lien on such Mortgaged Vessel or her Earnings for the cost of such work or otherwise;

8.5.17 Managers

not without the prior written consent of the Agent appoint anyone other than the Manager as commercial and technical manager of such Mortgaged Vessel nor to terminate or amend the terms of the relevant Management Agreement;

8.5.18 Conveyance on default

where such Mortgaged Vessel is (or is to be) sold in exercise of any power contained in this Mortgage, execute, forthwith upon request by the Security Trustee, such form of conveyance of such Mortgaged Vessel as the Security Trustee may require;

8.5.19 Anti-drug abuse

without prejudice to clause 5.1.9, take all necessary and proper precautions to prevent any infringements of the Anti-Drug Abuse Act of 1986 of the United States of America or any similar legislation applicable to such Mortgaged Vessel in any jurisdiction in or to which such Mortgaged Vessel shall be employed or located or trade or which may otherwise be applicable to such Mortgaged Vessel and/or the relevant Owner;

8.5.20 Compliance with Environmental Laws

comply with, and use all reasonable and proper endeavours to procure that all Environmental Affiliates of the relevant Owner comply with, all Environmental Laws in relation to such Mortgaged Vessel including, without limitation, requirements relating to manning, submission of oil spill response plans, designation of qualified individuals and establishing and establishment of financial responsibility and to obtain and comply with, and use all reasonable and proper endeavours to procure that all Environmental Affiliates of the relevant Owner obtain and comply with, all Environmental Approvals in relation to such Mortgaged Vessel;

8.5.21 Trading

not permit such Mortgaged Vessel to trade in any area prohibited by the government of the Flag State or in breach of Sanctions;

8.5.22 Recycling

if its Vessel is intended to be scrapped during the Facility Period, use its commercially reasonable 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 for the Safe and Environmentally Sound Recycling of Ships (2009);

8.5.23 Inventory of Hazardous Materials

maintain a green passport notification (based on the Inventory of Hazardous Materials) for its Vessel from its Classification Society throughout the Facility Period (commencing on 1 January 2021).

8.6 **Fuel Oil Consumption Data**

The Borrowers shall, upon the request of any Lender and at the cost of the Borrowers, on or before 31st July in each calendar year, supply or procure the supply to the Agent of all information necessary in order for any Lender to comply with its obligations under the Poseidon Principles in respect of the preceding year, including, without limitation, all ship fuel oil consumption data required to be collected and reported in accordance with Regulation 22A of Annex VI and any Statement of Compliance, in each case relating to each Ship for the preceding calendar year. For the avoidance of doubt, such information shall be confidential but the Borrowers acknowledge that, in accordance with the Poseidon Principles, such information will form part of the information published regarding the relevant Lender's portfolio climate alignment.

For the purposes of this Clause 8.6 (Fuel Oil Consumption Data):

- (a) “**Annex VI**” means Annex VI of the Protocol of 1997 (as subsequently amended from time to time) to amend the International Convention for the Prevention of Pollution from Ships 1973 (“MARPOL”), as modified by the Protocol of 1978 relating thereto;
- (b) “**Poseidon Principles**” means the financial industry framework for assessing and disclosing the climate alignment of ship finance portfolios published in June 2019 as the same may be amended or replaced from time to time; and
- (c) “**Statement of Compliance**” means a Statement of Compliance related to fuel oil consumption pursuant to regulations 6.6 and 6.7 of Annex VI.

8.7 **COVID-19**

The Borrowers hereby:

- 8.7.1 confirm, acknowledge, covenant and undertake that, notwithstanding that Decree 5235/30.03.2020 In Respect of the Emergency Measures Implementation From Financial Organisations And Supervisory Authorities Law of 2020 (the “Decree”) is not applicable to this Agreement or the loan facility made available under this Agreement, on the basis, inter alia, that this Agreement is entered into after the date of the Decree, they shall not send to the Agent or any other Bank and expression of interest or request or application for any relief, in respect of the payment of principal or interest or otherwise under the Decree or otherwise in relation with the COVID-19 pandemic; and
- 8.7.2 represent and warrant that they do not face any financial difficulties or adverse effects as a result of the effects of, or in connection with, the COVID-19 pandemic.

9 **CONDITIONS**

9.1 **Documents and evidence**

The obligation of each Lender to make its Commitment available in respect of any Advance is conditional upon:

- 9.1.1 that, on or before the service of the Drawdown Notice hereunder, the Agent has received the documents described in Part A of Schedule 3 in form and substance satisfactory to the Agent and its lawyers;
- 9.1.2 that, on or before the drawdown of an Advance, the Agent has received the documents described in Part B of Schedule 3 in respect of the Relevant Vessel (as defined in Schedule 3) in form and substance satisfactory to the Agent and its lawyers;
- 9.1.3 the representations and warranties contained in clause 7 and clauses 4.1 and 4.2 of the Corporate Guarantee being then true and correct as if each was made with respect to the facts and circumstances existing at such time; and
- 9.1.4 no Default having occurred and being continuing and there being no Default which would result from the making of the Loan.

9.2 **Waiver of conditions precedent**

The conditions specified in this clause 9 are inserted solely for the benefit of the Lenders and may be waived by the Agent in whole or in part and with or without conditions only with the consent of the Majority Lenders.

9.3 **Further conditions precedent/conditions subsequent**

Not later than five (5) Banking Days prior to the Drawdown Date and not later than five (5) Banking Days prior to each Interest Payment Date, the Agent (acting on the instructions of the Majority Lenders) may request and the Borrowers must, not later than two (2) Banking Days prior to such date, deliver to the Agent (at the Borrowers’ expense) on such request further favourable certificates and/or opinions as to any or all of the matters which are the subject of clauses 7, 8, 9 and 10.

9.4 **English language**

All documents required to be delivered under and/or supplied in connection with any of the Security Documents must either be in the English language or accompanied by an English translation certified by a notary, lawyer or consulate acceptable to the Agent.

10 **EVENTS OF DEFAULT**

10.1 **Events**

Each of the following events shall constitute an Event of Default (whether such event shall occur voluntarily or involuntarily or by operation of law or regulation or in connection with any judgment, decree or order of any court or other authority or otherwise, howsoever):

- 10.1.1 **Non-payment:** any Security Party fails to pay any sum payable by it under any of the Security Documents at the time, in the currency and in the manner stipulated in the Security Documents or the Underlying Documents (and so that, for this purpose, sums payable (i) under clauses 3.1 and 4.1 shall be treated as having been paid at the stipulated time if (aa) received by the Agent within three (3) Banking Days of the dates therein referred to and (bb) such delay in receipt is caused by administrative or other delays or errors within the banking system and (ii) on demand shall be treated as having been paid at the stipulated time if paid within three (3) Banking Days of demand); or
- 10.1.2 **Breach of Insurance and certain other obligations:** any Owner or, as the context may require, any Manager or any other person fails to obtain and/or maintain the Insurances for any of the Mortgaged Vessels or if any insurer in respect of such Insurances cancels the Insurances or disclaims liability by reason, in either case, of mis-statement in any proposal for the Insurances or for any other failure or default on the part of a Borrowers or any other person or a Borrower commits any breach of or omits to observe any of the obligations or undertakings expressed to be assumed by them under clause 8; or
- 10.1.3 **Breach of other obligations:** any Security Party, any Manager commits any breach of or omits to observe any of its obligations or undertakings expressed to be assumed by it under any of the Security Documents (other than those referred to in clauses 10.1.1 and 10.1.2 above) unless such breach or omission, in the opinion of the Agent (following consultation with the Banks) is capable of remedy, in which case the same shall constitute an Event of Default if it has not been remedied within fifteen calendar (15) days of the occurrence thereof; or
- 10.1.4 **Misrepresentation:** any representation or warranty made or deemed to be made or repeated by or in respect of any Security Party in or pursuant to any of the Security Documents or in any notice, certificate or statement referred to in or delivered under any of the Security Documents is or proves to have been incorrect or misleading in any material respect; or
- 10.1.5 **Cross-default:** any Indebtedness of the Group in an amount exceeding in aggregate fifteen million Dollars (USD 15,000,000) or any Indebtedness of any Borrower is not paid when due (subject to applicable grace or cure periods) or any such Indebtedness of any Borrower or any other Security Party becomes (whether by declaration or automatically in accordance with the relevant agreement or instrument constituting the same) due and payable prior to the date when it would otherwise have become due (unless as a result of the exercise by the relevant Borrower or other Security Party of a voluntary right of prepayment), or any creditor of any Borrower or any other Security Party becomes entitled to declare any such Indebtedness due and payable or any facility or commitment available to any Borrower or any other Security Party relating to Indebtedness is withdrawn, suspended or cancelled by reason of any default (however described) of the person concerned; or

- 10.1.6 **Execution:** any uninsured judgment or order made against any Security Party is not stayed, appealed against or complied with within thirty (30) days or a creditor attaches or takes possession of, or a distress, execution, sequestration or other process is levied or enforced upon or sued out against, any of the undertakings, assets, rights or revenues of any Security Party and is not discharged within forty (40) days; or
- 10.1.7 **Insolvency:** any Security Party is unable or admits inability to pay its debts as they fall due; suspends making payments on any of its debts or announces an intention to do so; becomes insolvent; or suffers the declaration of a moratorium in respect of any of its Indebtedness; or
- 10.1.8 **Reduction or loss of capital:** a meeting is convened by any Security Party (other than the Corporate Guarantor) without the Agent's prior written consent, for the purpose of passing any resolution to purchase, reduce or redeem any of its share capital without the Agent's prior written consent; or
- 10.1.9 **Dissolution:** any corporate action, Proceedings or other steps are taken to dissolve or wind-up any Security Party or an order is made or resolution passed for the dissolution or winding up of any Security Party or a notice is issued convening a meeting for such purpose; or
- 10.1.10 **Administration:** any petition is presented, notice given or other steps are taken anywhere to appoint an administrator of any Security Party or the Agent reasonably believes that any such petition or other step is imminent or an administration order is made in relation to any Security Party; or
- 10.1.11 **Appointment of receivers and managers:** any administrative or other receiver of any Security Party is appointed anywhere or any material part of its assets and/or undertaking or any other steps are taken to enforce any Encumbrance over all or any material part of the assets of any Security Party; or
- 10.1.12 **Compositions:** any corporate action, legal proceedings or other procedures or steps are taken, or negotiations commenced, by any Security Party or by any of its creditors (other than the Corporate Guarantor) or any legal proceedings are taken in respect of the Corporate Guarantor, with a view to the general readjustment or rescheduling of all or part of its Indebtedness or to proposing any kind of composition, compromise or arrangement involving such company and any of its creditors; or
- 10.1.13 **Analogous proceedings:** there occurs, in relation to any Security Party, in any country or territory in which any of them carries on business or to the jurisdiction of whose courts any part of their assets is subject, any event which, in the reasonable opinion of the Agent, appears in that country or territory to correspond with, or have an effect equivalent or similar to, any of those mentioned in clauses 10.1.6 to 10.1.12 (inclusive) or any Security Party otherwise becomes subject, in any such country or territory, to the operation of any law relating to insolvency, bankruptcy or liquidation; or
- 10.1.14 **Cessation of business:** any Security Party suspends or ceases or threatens to suspend or cease to carry on its business without the prior written consent of the Agent, such consent not to be unreasonably withheld (it being agreed that a sale of a Vessel by the Borrower who is the owners thereof shall not constitute an Event of Default provided that the Borrowers comply with clause 4.4); or

- 10.1.15 **Seizure:** all or a material part of the undertaking, assets, rights or revenues of, or shares or other ownership interests in, any Security Party are seized, nationalised, expropriated or compulsorily acquired by or under the authority of any Government Entity; or
- 10.1.16 **Invalidity:** any of the Security Documents and the Underlying Documents shall at any time and for any reason become invalid or unenforceable or otherwise cease to remain in full force and effect, or if the validity or enforceability of any of the Security Documents and the Underlying Documents shall at any time and for any reason be contested by any Security Party which is a party thereto, or if any such Security Party shall deny that it has any, or any further, liability thereunder; or
- 10.1.17 **Unlawfulness:** any Unlawfulness occurs or it becomes impossible or unlawful at any time for any Security Party, to fulfil any of the covenants and obligations expressed to be assumed by it in any of the Security Documents or for a Bank to exercise the rights or any of them vested in it under any of the Security Documents; or
- 10.1.18 **Repudiation:** any Security Party repudiates any of the Security Documents or does or causes or permits to be done any act or thing evidencing an intention to repudiate any of the Security Documents; or
- 10.1.19 **Encumbrances enforceable:** any Encumbrance (other than Permitted Liens) in respect of any of the property (or part thereof) which is the subject of any of the Security Documents becomes enforceable; or
- 10.1.20 **Arrest:** a Mortgaged Vessel is arrested, confiscated, seized, taken in execution, impounded, forfeited, detained in exercise or purported exercise of any possessory lien or other claim or otherwise taken from the possession of its Owner and that Owner shall fail to procure the release of such Mortgaged Vessel within a period of thirty (30) days thereafter (this clause does not include capture of a Vessel by pirates for up to 12 months (but does apply if such capture exceeds 12 months) if relevant underwriters confirm in writing (in terms satisfactory to the Lenders) within ninety (90) day of capture, that such capture will be covered by the relevant Borrower's war risks insurance); or
- 10.1.21 **Registration:** the registration of a Mortgaged Vessel under the laws and flag of the relevant Flag State is cancelled or terminated without the prior written consent of the Majority Lenders; or
- 10.1.22 **Unrest:** the Flag State of a Mortgaged Vessel or the country in which any Security Party is incorporated or domiciled becomes involved in hostilities or civil war or there is a seizure of power in the Flag State by unconstitutional means (which hostilities or civil war or seizure of power would reasonably be expected to have a Material Adverse Effect) unless the Owner of the Vessel registered in such Flag State shall have transferred its Vessel onto a new flag acceptable to the Banks within sixty (60) days of the start of such hostilities or civil war or seizure of power; or
- 10.1.23 **Environmental Incidents:** an Environmental Incident occurs which gives rise, or may give rise, to an Environmental Claim which could, in the opinion of the Agent be expected to have a Material Adverse Effect (i) on the business, assets or financial condition of any Security Party or the Group taken as a whole or (ii) on the security constituted by any of the Security Documents or the enforceability of that security in accordance with its terms; or

- 10.1.24 **P&I:** an Owner or a Manager or any other person fails or omits to comply with any requirements of the protection and indemnity association or other insurer with which a Mortgaged Vessel is entered for insurance or insured against protection and indemnity risks (including oil pollution risks) to the effect that any cover (including, without limitation, any cover in respect of liability for Environmental Claims arising in jurisdictions where such Mortgaged Vessel operates or trades) is or may be liable to cancellation, qualification or exclusion at any time; or
- 10.1.25 **Material events:** any other event occurs or circumstance arises which, in the opinion of the Agent (following consultation with the Banks), is likely materially and adversely to affect either (i) the ability of any Security Party to perform all or any of its obligations under or otherwise to comply with the terms of any of the Security Documents or (ii) the security created by any of the Security Documents; or
- 10.1.26 **Required Authorisations:** any Required Authorisation is revoked or withheld or modified (the effect of which would be to have a Material Adverse Effect) or is otherwise not granted or fails to remain in full force and effect or if any exchange control or other law or regulation shall exist which would make any transaction under the Security Documents or the continuation thereof, unlawful or would prevent the performance by any Security Party of any term of any of the Security Documents;
- 10.1.27 **Ownership/management:** there is any change in the direct or indirect ownership of any Borrower or any Vessel (from that disclosed pursuant to paragraph (h) of Schedule 2, Part A) or a change of Manager (other than as contemplated by the definition of Manager) of any Vessel without the prior written consent of the Agent;
- 10.1.28 **Change of Control:** the “Permitted Holders” own less than 15% of the issued share capital of the Corporate Guarantor or there is a change of control (as defined in the definition of “subsidiary” in clause 1.2) in respect of the Shareholder; or
- 10.1.28 **Anti-Money Laundering:** any Security Party is in breach of or fails to observe any law, requirement, measure or procedure implemented to combat Money Laundering or comparable United States federal and state laws, including without limitation the PATRIOT Act and the Bank Secrecy Act.
- 10.2 **Acceleration**
- The Agent may, and if so requested by the Majority Lenders shall, without prejudice to any other rights of the Lenders, at any time after the happening of an Event of Default so long as the same is continuing by notice to the Borrowers declare that:
- 10.2.1 the obligation of each Lender to make its Commitment available shall be terminated, whereupon the Commitment shall immediately be cancelled; and/or
- 10.2.2 the Loan and all interest accrued and all other sums payable whensoever under the Security Documents have become due and payable, whereupon the same shall, immediately or otherwise in accordance with the terms of such notice, become due and payable.

10.3 **Demand basis**

If, under clause 10.2.2, the Agent has declared the Loan to be due and payable on demand, at any time thereafter the Agent may (and if so instructed by the Majority Lenders shall) by further written notice to the Borrowers demand repayment of the Loan on such date as may be specified whereupon the Loan shall become due and payable accordingly with all interest accrued and all other sums payable under this Agreement.

11 **INDEMNITIES**

11.1 **General indemnity**

The Borrowers agree to indemnify each Bank on demand, without prejudice to any of such Bank's other rights under any of the Security Documents, against any loss (including loss of Margin) or expense (including, without limitation, any Break Costs) which such Bank shall certify as sustained by it (a) as a consequence of any Default, any prepayment of the Loan being made under clauses 4.2, 4.3, 4.5, 8.2.1(a) or 12.1 or any other repayment or prepayment of the Loan or part thereof being made otherwise than on an Interest Payment Date relating to the part of the Loan prepaid or repaid; and/or any Advance not being made for any reason (excluding any default by the Agent, the Security Trustee or any Lender) after the Drawdown Notice for such Advance has been given or (b) in connection with Sanctions.

11.2 **Environmental indemnity**

The Borrowers shall indemnify each Bank on demand and hold it harmless from and against all costs, claims, expenses, payments, charges, losses, demands, liabilities, actions, Proceedings, penalties, fines, damages, judgements, orders, sanctions or other outgoings of whatever nature which may be incurred or made or asserted whensoever against such Bank at any time, whether before or after the repayment in full of principal and interest under this Agreement, arising howsoever out of an Environmental Claim made or asserted against such Bank which would not have been, or been capable of being, made or asserted against such Bank had it not entered into any of the Security Documents or been involved in any of the resulting or associated transactions.

11.3 **Capital adequacy and reserve requirements indemnity**

The Borrowers shall promptly indemnify each Lender on demand against any cost incurred or loss suffered by such Lender as a result of its complying with (i) the minimum reserve requirements from time to time of the European Central Bank (ii) any capital adequacy directive of the European Union and/or (iii) any revised framework for international convergence of capital measurements and capital standards and/or any regulation imposed by any Government Entity in connection therewith, and/or in connection with maintaining required reserves with a relevant national central bank to the extent that such compliance or maintenance relates to such Lender's Commitment and/or Contribution or deposits obtained by it to fund the whole or part thereof and to the extent such cost or loss is not recoverable by such Lender under clause 12.2.

12 **UNLAWFULNESS AND INCREASED COSTS**

12.1 **Unlawfulness**

If, regardless of any other provision of this Agreement, by reason of:

- (a) the introduction of or any change in any applicable law or regulation or Sanctions or any change in the interpretation or application thereof; or

- (b) compliance by a Lender with any directive, request or requirement (whether or not having the force of law) of any central bank or Government Entity,

it becomes unlawful or it is prohibited by or contrary to such directive request or requirement for any Lender to contribute to an Advance or to maintain its Commitment or fund its Contribution to the Loan or any Advance or to maintain or give effect to any of its obligations in connection howsoever with this Agreement, such Lender shall promptly, through the Agent, give notice to the Borrowers whereupon (a) such Lender's Contribution and Commitment shall be reduced to zero and (b) the Borrowers shall be obliged to prepay such Lender's Contribution either (i) immediately or (ii) on a future date (specified in the Agent's notice) not being earlier than the latest date permitted by the relevant law, regulation, directive, request or requirement together with interest accrued to the date of prepayment and all other sums payable whensoever by the Borrowers under this Agreement.

12.2 **Increased costs**

If the result of any change (which occurs after the Execution Date) in, or in the interpretation or application of, or the introduction of, any law or any regulation, request or requirement or the effect of complying with any applicable directive, request or requirement (whether or not having the force of law, but, if not having the force of law, with which a Lender or, as the case may be, its holding company habitually complies) of any central bank or Government Entity (including, but not limited to, the 1988 Basle Convergence Agreement and including those relating to Taxation or any kind of liquidity, stock or capital adequacy controls, reserve assets, cash ratio deposits and special deposits or other banking or monetary controls or requirements which affect the manner in which a Lender or its holding company allocates capital resources to the Lender's obligations hereunder), is to:

- 12.2.1 subject any Lender to Taxes or change the basis of Taxation of any Lender with respect to any payment under any of the Security Documents (other than Taxes or Taxation on the overall net income, profits or gains of such Lender imposed in the jurisdiction in which its principal or lending office under this Agreement is located); and/or
- 12.2.2 increase the cost to, or impose an additional cost on, any Lender or its holding company in making or keeping such Lender's Commitment available or maintaining or funding all or part of such Lender's Contribution; and/or
- 12.2.3 reduce the amount payable or the effective return to any Lender under any of the Security Documents; and/or
- 12.2.4 reduce any Lender's or its holding company's rate of return on its overall capital by reason of a change in the manner in which it is required to allocate capital resources to such Lender's obligations under any of the Security Documents; and/or
- 12.2.5 require any Lender or its holding company to make a payment or forgo a return on or calculated by reference to any amount received or receivable by such Lender under any of the Security Documents; and/or
- 12.2.6 require any Lender or its holding company to incur or sustain a loss (including a loss of future potential profits) by reason of being obliged to deduct all or part of its Contribution or the Loan from its capital for regulatory purposes,

then and in each such case (subject to clause 12.3):

- (a) such Lender shall notify, via the Agent, the Borrowers in writing of such event promptly upon its becoming aware of the same; and
- (b) the Borrowers shall on demand made at any time whether or not such Lender's Contribution has been repaid, pay to the Agent for the account of such Lender the amount which such Lender specifies (in a certificate setting forth the basis of the computation of such amount but not including any matters which such Lender or its holding company regards as confidential) is required to compensate such Lender and/or (as the case may be) its holding company for such liability to Taxes, cost, reduction, payment, forgone return or loss.

For the purposes of this clause 12.2 "**holding company**" means the company or entity (if any) within the consolidated supervision of which a Lender is included.

12.3 **Exception**

Nothing in clause 12.2 shall entitle any Lender to receive any amount relating to compensation for any such liability to Taxes, increased or additional cost, reduction, payment, foregone return or loss to the extent that the same is the subject of an additional payment under clause 6.6 or compensated for by the payment of the Mandatory Cost.

13 **APPLICATION OF MONEYS, SET OFF, PRO-RATA PAYMENTS AND MISCELLANEOUS**

13.1 **Application of moneys**

All moneys received by the Agent and/or the Security Trustee under or pursuant to any of the Security Documents and expressed to be applicable in accordance with the provisions of this clause 13.1 or in a manner determined in the Security Trustee's or (as the case may be) the Agent's discretion, shall be applied in the following manner:

- 13.1.1 first, in or towards payment, on a pro-rata basis, of any unpaid costs and expenses of the Banks or any of them under any of the Security Documents;
- 13.1.2 secondly, in or towards payment of any fees payable to the Arranger, the Agent or any of the other Banks under, or in relation to, the Security Documents which remain unpaid;
- 13.1.3 thirdly, in or towards payment to the Lenders, on a pro rata basis, of any accrued interest owing in respect of the Loan which shall have become due under any of the Security Documents but remains unpaid;
- 13.1.4 fourthly, in or towards payment to the Lenders, on a pro rata basis according to their respective Contributions, of any principal in respect of the Loan (whether the same is due and payable or not); and
- 13.1.5 fifthly, in or towards payment to the Lenders, on a pro rata basis, for any loss suffered by reason of any such payment in respect of principal not being effected on an Interest Payment Date relating to the part of the Loan repaid and which amounts are so payable under this Agreement;
- 13.1.6 sixthly in or towards payment to the relevant person of any other sum which shall have become due under any of the Security Documents but remains unpaid (and, if more than one such sum so remains unpaid, on a pro rata basis);

- 13.1.7 seventhly, the surplus (if any) shall be paid to the Borrowers or to whomsoever else may then be entitled to receive such surplus.
- 13.2 **Set-off**
- 13.2.1 Each Borrower irrevocably authorises each Bank (without prejudice to any of such Bank's rights at law, in equity or otherwise), at any time and without notice to the Borrowers, to apply any credit balance to which any Borrower is then entitled standing upon any account of any Borrower with any branch of such Bank in or towards satisfaction of any sum due and payable from the Borrowers to such Bank under any of the Security Documents. For this purpose, each Bank is authorised to purchase with the moneys standing to the credit of such account such other currencies as may be necessary to effect such application.
- 13.2.2 No Bank shall be obliged to exercise any right given to it by this clause 13.2. Each Bank shall notify the Borrowers through the Agent forthwith upon the exercise or purported exercise of any right of set off giving full details in relation thereto and the Agent shall inform the other Banks.
- 13.2.3 Nothing in this clause 13.2 shall be effective to create a charge or other security interest.
- 13.3 **Pro rata payments**
- 13.3.1 If at any time any Lender (the "**Recovering Lender**") receives or recovers any amount owing to it by the Borrowers under this Agreement (other than pursuant to any other Security Document) by direct payment, set-off or in any manner other than by payment through the Agent pursuant to clauses 6.1 or 6.9 (not being a payment received from a Transferee Bank or a sub-participant in such Lender's Contribution or any other payment of an amount due to the Recovering Lender for its sole account pursuant to clauses 3.6, 5, 6.6, 11.1, 11.2, 11.3, 12.1, or 12.2), the Recovering Lender shall, within two (2) Banking Days of such receipt or recovery (a "**Relevant Receipt**") notify the Agent of the amount of the Relevant Receipt. If the Relevant Receipt exceeds the amount which the Recovering Lender would have received if the Relevant Receipt had been received by the Agent and distributed pursuant to clause 6.1 or 6.10 (as the case may be) then:
- (a) within two (2) Banking Days of demand by the Agent, the Recovering Lender shall pay to the Agent an amount equal (or equivalent) to the excess;
 - (b) the Agent shall treat the excess amount so paid by the Recovering Lender as if it were a payment made by the Borrowers and shall distribute the same to the Lenders (other than the Recovering Lenders) in accordance with clause 6.10; and
 - (c) as between the Borrowers and the Recovering Lender the excess amount so re-distributed shall be treated as not having been paid but the obligations of the Borrowers to the other Lenders shall, to the extent of the amount so re-distributed to them, be treated as discharged.
- 13.3.2 If any part of the Relevant Receipt subsequently has to be wholly or partly refunded by the Recovering Lender (whether to a liquidator or otherwise) each Lender to which any part of such Relevant Receipt was so re-distributed shall on request from the Recovering Lender repay to the Recovering Lender such Lender's pro-rata share of the amount which has to be refunded by the Recovering Lender.

- 13.3.3 Each Lender shall on request supply to the Agent such information as the Agent may from time to time request for the purposes of this clause 13.3.
- 13.3.4 Notwithstanding the foregoing provisions of this clause 13.3, no Recovering Lender shall be obliged to share any Relevant Receipt which it receives or recovers pursuant to Proceedings taken by it to recover any sums owing to it under this Agreement with any other party which has a legal right to, but does not, either join in such Proceedings or commence and diligently pursue separate Proceedings to enforce its rights in the same or another court (unless the Proceedings instituted by the Recovering Lender are instituted by it without prior notice having been given to such party through the Agent).
- 13.4 **No release**
- For the avoidance of doubt it is hereby declared that failure by any Recovering Lender to comply with the provisions of clause 13.3 shall not release any other Recovering Lender from any of its obligations or liabilities under clause 13.3.
- 13.5 **No charge**
- The provisions of this clause 13 shall not, and shall not be construed so as to, constitute a charge or create or declare a trust by a Lender over all or any part of a sum received or recovered by it in the circumstances mentioned in clause 13.3.
- 13.6 **Further assurance**
- Each Borrower undertakes with each Bank that the Security Documents shall both at the date of execution and delivery thereof and throughout the Facility Period be valid and binding obligations of the Security Parties party thereto which, with the rights of each Lender thereunder, are enforceable in accordance with their respective terms and that they will, at their expense, execute, sign, perfect and do, and will procure the execution, signing, perfecting and doing by each of the other Security Parties of, any and every such further assurance, document, act or thing as in the reasonable opinion of the Majority Lenders may be necessary or desirable for perfecting the security contemplated or constituted by the Security Documents.
- 13.7 **Conflicts**
- In the event of any conflict between this Agreement and any of the other Security Documents, the provisions of this Agreement shall prevail.
- 13.8 **No implied waivers, remedies cumulative**
- No failure or delay on the part of any of the Banks to exercise any power, right or remedy under any of the Security Documents shall operate as a waiver thereof, nor shall any single or partial exercise by any Bank of any power, right or remedy preclude any other or further exercise thereof or the exercise of any other power, right or remedy. The remedies provided in the Security Documents are cumulative and are not exclusive of any remedies provided by law. No waiver by any Bank shall be effective unless it is in writing.
- 13.9 **Severability**
- If any provision of this Agreement is prohibited, invalid, illegal or unenforceable in any jurisdiction, such prohibition, invalidity, illegality or unenforceability shall not affect or impair howsoever the remaining provisions thereof or affect the validity, legality or enforceability of such provision in any other jurisdiction.

13.10 **Force Majeure**

Regardless of any other provision of this Agreement, none of the Banks shall be liable for any failure to perform the whole or any part of this Agreement resulting directly or indirectly from (i) the action or inaction or purported action of any governmental or local authority (ii) any strike, lockout, boycott or blockade (including any strike, lockout, boycott or blockade effected by or upon any Bank or any of its representatives or employees) (iii) any act of God (iv) any act of war (whether declared or not) or terrorism (v) any failure of any information technology or other operational systems or equipment affecting any Bank or (vi) any other circumstances whatsoever outside any Bank's control.

13.11 **Amendments**

This Agreement may be amended or varied only by an instrument in writing executed by all parties hereto who irrevocably agree that the provisions of this clause 13.11 may not be waived or modified except by an instrument in writing to that effect signed by all of them.

13.12 **Counterparts**

This Agreement may be executed in any number of counterparts and all such counterparts taken together shall be deemed to constitute one and the same agreement which may be sufficiently evidenced by one counterpart.

13.13 **English language**

All documents required to be delivered under and/or supplied whensoever in connection howsoever with any of the Security Documents and all notices, communications, information and other written material whatsoever given or provided in connection howsoever therewith must either be in the English language or accompanied by an English translation certified by a notary, lawyer or consulate acceptable to the Agent.

13.14 **Contractual recognition of bail-in**

Notwithstanding any other term of any Security 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 Security 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 Security Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.

14 ACCOUNTS AND RETENTIONS

14.1 General

Each Borrower undertakes with each Bank that it will ensure that:

- 14.1.1 it will on or before the Drawdown Date, open an Earnings Account in its name; and
- 14.1.2 all moneys payable to any Borrower in respect of the Earnings of its Mortgaged Vessel shall, unless and until the Agent (acting on the instructions of the Majority Lenders) directs to the contrary, be paid to its Earnings Account, Provided however that if any of the moneys paid to an Earnings Account are payable in a currency other than USD the Account Bank shall then convert such moneys into USD at the Account Bank's spot rate of exchange at the relevant time for the purchase of USD with such currency and the term "spot rate of exchange" shall include any premium and costs of exchange payable in connection with the purchase of USD with such currency.

14.2 Earnings Accounts: withdrawals

Any sums standing to the credit of the Earnings Accounts may be applied from time to time (i) firstly to make the payments required under this Agreement, (ii) secondly, subject to there being no breach of clauses 14.3 and 14.4 and to no Event of Default having occurred, in the operation of the Vessels (operating and voyage expenses) and (iii) thirdly, subject to no Event of Default having occurred and to there being at any time sufficient funds to maintain or pay amounts due under (i) and (ii) above as they fall due, for the general corporate purposes of the Borrowers.

14.3 Minimum Balance

The Borrowers shall deposit on the Drawdown Date and maintain thereafter throughout the Facility Period on the Liquidity Account a balance of not less than USD250,000 multiplied by the number of Mortgaged Vessels.

14.4 Retention Account: credits and withdrawals

- 14.4.1 The Borrowers undertake with each Bank that, throughout the Facility Period, they will procure that, on each Retention Date there is paid (whether from the Earnings Accounts or elsewhere) to the Retention Account, the Retention Amount for such date.
- 14.4.2 Unless and until there shall occur an Event of Default (whereupon the provisions of clause 14.5 shall apply), all Retention Amounts credited to the Retention Account together with interest from time to time accruing or at any time accrued thereon must be applied by the Account Bank (and the Borrowers hereby irrevocably authorise the Account Bank so to apply the same) upon each Repayment Date and/or on each day that interest is payable on the Loan or an Advance pursuant to clause 3.1, in or towards payment to the Agent of the instalment then falling due for repayment or, as the case may be, the amount of interest then due. Each such application by the Account Bank shall constitute a payment in or towards satisfaction of the Borrowers' corresponding payment obligations under this Agreement but shall be strictly without prejudice to the obligations of the Borrowers to make any such payment to the extent that the aforesaid application by the Account Bank is insufficient to meet the same.

14.4.3 Unless the Agent (acting on the instructions of the Majority Lenders) otherwise agrees in writing and subject to clause 14.4.2, Borrowers shall not be entitled to withdraw any moneys from the Retention Account at any time during the Facility Period.

14.5 **Application of accounts**

At any time after the occurrence of an Event of Default, the Agent may (and on the instructions of the Majority Lenders shall), without notice to the Borrowers, instruct the Account Bank to apply all moneys then standing to the credit of the Earnings Accounts and/or the Retention Account (together with interest from time to time accruing or accrued thereon) in or towards satisfaction of any sums due to the Banks or any of them under the Security Documents in the manner specified in clause 13.1.

14.6 **Charging of accounts**

The Earnings Accounts, the Retention Account and all amounts from time to time respectively standing to the credit thereof shall be subject to the security constituted and the rights conferred by the Accounts Pledge.

15 **ASSIGNMENT, TRANSFER AND LENDING OFFICE**

15.1 **Benefit and burden**

This Agreement shall be binding upon, and enure for the benefit of, the Banks and the Borrowers and their respective successors in title.

15.2 **No assignment by Borrowers**

No Borrower may assign or transfer any of its rights or obligations under this Agreement without the prior written consent of the Lenders.

15.3 **Transfers by Banks**

any Lender (the “**Transferor Lender**”) may at any time, without the consent of, but after consultation with, the Borrowers, cause all or any part of its rights, benefits and/or obligations under this Agreement and the other Security Documents to be transferred to (i) another Lender, (ii) another branch, subsidiary or affiliate of a Lender, (iii) another first class international bank or financial institution, (iv) any member of the European System of Central Banks, (v) a trust corporation, insurance company, fund, capital investment company or other person which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets or (vi) (without prior notification to, nor prior consent from, the Borrowers) following the occurrence of an Event of Default which is continuing, any other person (in each case a “**Transferee Lender**”), in each case by delivering to the Agent a Transfer Certificate duly completed and duly executed by the Transferor Lender and the Transferee Lender **provided** that any Transferee Lender shall, before transferring its right, benefits and obligations to any other bank or financial institution, give notice thereof to the other Lenders, who shall have the option, to be exercised by notice in writing, to acquire all its part of the rights, benefits and obligations of the Transferee Lender, in which case the Transferor Lender shall transfer the same to that Lender or Lenders in accordance with this clause 15.3. No such transfer is binding on, or effective in relation to, the Borrowers or the Agent unless (i) it is effected or evidenced by a Transfer Certificate which complies with the provisions of this clause 15.3 and is signed by or on behalf of the Transferor

Lender, the Transferee Lender and the Agent (on behalf of itself, the Borrowers and the other Banks) and (ii) such transfer of rights under the other Security Documents has been effected and registered. Upon signature of any such Transfer Certificate by the Agent, which signature shall be effected as promptly as is practicable after such Transfer Certificate has been delivered to the Agent, and subject to the terms of such Transfer Certificate, such Transfer Certificate shall have effect as set out below.

The following further provisions shall have effect in relation to any Transfer Certificate:

- 15.3.1 a Transfer Certificate may be in respect of a Lender's rights in respect of all, or part of, its Commitment and shall be in respect of the same proportion of its Contribution;
- 15.3.2 a Transfer Certificate shall only be in respect of rights and obligations of the Transferor Lender in its capacity as a Lender and shall not transfer its rights and obligations (if applicable) as the Agent and/or Security Trustee, or in any other capacity, as the case may be and such other rights and obligations may only be transferred in accordance with any applicable provisions of this Agreement;
- 15.3.3 a Transfer Certificate shall take effect in accordance with English law as follows:
- (a) to the extent specified in the Transfer Certificate, the Transferor Lender's payment rights and all its other rights (other than those referred to in clause 15.3.2 above) under this Agreement are assigned to the Transferee Lender absolutely, free of any defects in the Transferor Lender's title and of any rights or equities which the Borrowers had against the Transferor Lender and the Transferee Lender assumes all obligations of the Transferor Lender as are transferred by such Transfer Certificate;
 - (b) the Transferor Lender's Commitment is discharged to the extent specified in the Transfer Certificate;
 - (c) the Transferee Lender becomes a Lender with a Contribution and/or a Commitment in respect of the Loan of the amounts specified in the Transfer Certificate;
 - (d) the Transferee Lender becomes bound by all the provisions of this Agreement and the Security Documents which are applicable to the Lenders generally, including those about pro-rata sharing and the exclusion of liability on the part of, and the indemnification of, the Agent and the Security Trustee and to the extent that the Transferee Lender becomes bound by those provisions, the Transferor Lender ceases to be bound by them;
 - (e) an Advance or part of an Advance which the Transferee Lender makes after the Transfer Certificate comes into effect ranks in point of priority and security in the same way as it would have ranked had it been made by the Transferor Lender, assuming that any defects in the Transferor Lender's title and any rights or equities of any Security Party against the Transferor Lender had not existed; and
 - (f) the Transferee Lender becomes entitled to all the rights under this Agreement which are applicable to the Lenders generally, including but not limited to those relating to the Majority Lenders and those under clauses 3.6, 5 and 12 and to the extent that the Transferee Lender becomes entitled to such rights, the Transferor Lender ceases to be entitled to them;

- 15.3.4 the rights and equities of the Borrowers or of any other Security Party referred to above include, but are not limited to, any right of set-off and any other kind of cross-claim; and
- 15.3.5 the Borrowers, the Account Bank, the Security Trustee, the Agent and the Lenders hereby irrevocably authorise and instruct the Agent to sign any such Transfer Certificate on their behalf and undertake not to withdraw, revoke or qualify such authority or instruction at any time. Promptly upon its signature of any Transfer Certificate, the Agent shall notify the Borrowers, the Transferor Lender and the Transferee Lender.
- 15.4 **Reliance on Transfer Certificate**
- 15.4.1 The Agent shall be entitled to rely on any Transfer Certificate believed by it to be genuine and correct and to have been presented or signed by the persons by whom it purports to have been presented or signed, and shall not be liable to any of the parties to this Agreement and the Security Documents for the consequences of such reliance.
- 15.4.2 The Agent shall at all times during the continuation of this Agreement maintain a register in which it shall record the name, Commitments, Contributions and administrative details (including the lending office) from time to time of the Lenders holding a Transfer Certificate and the date at which the transfer referred to in such Transfer Certificate held by each Lender was transferred to such Lender, and the Agent shall make the said register available for inspection by any Lender or the Borrowers during normal banking hours upon receipt by the Agent of reasonable prior notice requesting the Agent to do so.
- 15.4.3 The entries on the said register shall, in the absence of manifest error, be conclusive in determining the identities of the Commitments, the Contributions and the Transfer Certificates held by the Lenders from time to time and the principal amounts of such Transfer Certificates and may be relied upon by all parties to this Agreement.
- 15.5 **Transfer fees and expenses**
- Any Transferor Lender who causes the transfer of all or any part of its rights, benefits and/or obligations under the Security Documents in accordance with the foregoing provisions of this clause 15, must, on each occasion, pay to the Agent a transfer fee of three thousand Dollars (USD3,000) and, in addition, be responsible for all other costs and expenses (including, but not limited to, reasonable legal fees and expenses) associated therewith and all value added tax thereon, as well as those of the Agent (in addition to its fee as aforesaid) in connection with such transfer.
- 15.6 **Documenting transfers**
- If any Lender assigns all or any part of its rights or transfers all or any part of its rights, benefits and/or obligations as provided in clause 15.3, each Borrower undertakes, immediately on being requested to do so by the Agent and at the cost of the Transferor Lender, to enter into, and procure that the other Security Parties shall (at the cost of the Transferor Lender) enter into, such documents as may be necessary or desirable to transfer to the Transferee Lender all or the relevant part of such Lender's interest in the Security Documents and all relevant references in this Agreement to such Lender shall thereafter be construed as a reference to the Transferor Lender and/or its Transferee Lender (as the case may be) to the extent of their respective interests.

- 15.7 **Sub-Participation, securitisation, subrogation assignment**
- 15.7.1 A Lender may sub-participate or include in a securitisation or similar transaction all or any part of its rights and/or obligations under or in connection with the Security Documents without the prior consent of the Borrowers, any Security Party, the Agent or the Security Trustee and the Lenders may assign, in any manner and terms all or any part of those rights to an insurer or surety who has become subrogated to them.
- 15.7.2 The Borrowers shall, and shall procure that each Security Party shall, do everything desirable or necessary to assist the Lenders (or any of them) to achieve a successful (in the opinion of the Lender concerned) securitisation (or similar transaction) or any sub-participation or subrogation assignment.
- 15.8 **Lending office**
- Each Lender shall lend through its office at the address specified in schedule 1 or, as the case may be, in any relevant Transfer Certificate or through any other office of such Lender selected from time to time by it through which such Lender wishes to lend for the purposes of this Agreement. If the office through which a Lender is lending is changed pursuant to this clause 15.8, such Lender shall notify the Agent promptly of such change and the Agent shall notify the Borrowers, the Security Trustee, the Account Bank and the other Lenders.
- 15.9 **Disclosure of information**
- A Bank may disclose to any of its branches and affiliates, its head office, any relevant fiscal authorities a prospective assignee, transferee or to any other person who may propose entering into contractual relations with such Bank in relation to this Agreement such information about the Borrowers and/or the other Security Parties and/or the Loan and/or the Security Documents as such Bank shall consider appropriate in relation to any transfer and/or enforcement hereunder.
- 16 **ARRANGER, AGENT AND SECURITY TRUSTEE**
- 16.1 **Appointment of the Agent**
- Each Lender irrevocably appoints the Agent as its agent for the purposes of this Agreement and such of the Security Documents to which it may be appropriate for the Agent to be party. Accordingly each of the Lenders hereby authorises the Agent:
- 16.1.1 to execute such documents as may be approved by the Majority Lenders for execution by the Agent; and
- 16.1.2 (whether or not by or through employees or agents) to take such action on such Lender's behalf and to exercise such rights, remedies, powers and discretions as are specifically delegated to the Agent by any Security Document, together with such powers and discretions as are reasonably incidental thereto.
- 16.2 **Agent's actions**
- Any action taken by the Agent under or in relation to any of the Security Documents whether with requisite authority or on the basis of appropriate instructions received from the Majority Lenders (or as otherwise duly authorised) shall be binding on all the Banks.

16.3 **Agent's and Agent's duties**

16.3.1 The Agent shall promptly notify each Lender of (i) the contents of each notice, certificate or other document received by it from the Borrowers under or pursuant to clauses 8.1.1, 8.1.6, 8.1.9, 8.1.10, 8.1.13 and 8.1.17 and (ii) any information it receives which is material to the Borrowers' ability to repay the Loan; and

16.3.2 The Agent shall (subject to the other provisions of this clause 16) take (or instruct the Security Trustee to take) such action or, as the case may be, refrain from taking (or authorise the Security Trustee to refrain from taking) such action with respect to the exercise of any of its rights, remedies, powers and discretions as agent, as the Majority Lenders may direct.

16.4 **Security Trustee's and Agent's rights**

The Security Trustee and the Agent may:

16.4.1 in the exercise of any right, remedy, power or discretion in relation to any matter, or in any context, not expressly provided for by this Agreement or any of the other Security Documents, act or, as the case may be, refrain from acting (or authorise the Security Trustee to act or refrain from acting) in accordance with the instructions of the Lenders, and shall be fully protected in so doing;

16.4.2 unless and until it has received directions from the Majority Lenders, take such action or, as the case may be, refrain from taking such action (or authorise the Security Trustee to take or refrain from taking such action) in respect of a Default of which the Agent has actual knowledge as it shall consider advisable in the best interests of the Lenders (but shall not be obliged to do so);

16.4.3 refrain from acting (or authorise the Security Trustee to refrain from acting) in accordance with any instructions of the Lenders to institute any Proceedings arising out of or in connection with any of the Security Documents until it and/or the Security Trustee has been indemnified and/or secured to its satisfaction against any and all costs, expenses or liabilities (including legal fees) which it would or might incur as a result;

16.4.4 deem and treat (i) each Lender as the person entitled to the benefit of the Contribution of such Lender for all purposes of this Agreement unless and until a notice shall have been filed with the Agent pursuant to clause 15.3 and shall have become effective, and (ii) the office set opposite the name of each of the Lenders in schedule 1 as its lending office unless and until a written notice of change of lending office shall have been received by the Agent and the Agent may act upon any such notice unless and until the same is superseded by a further such notice;

16.4.5 rely as to matters of fact which might reasonably be expected to be within the knowledge of any Security Party upon a certificate signed by any director or officer of the relevant Security Party on behalf of the relevant Security Party; and

16.4.6 do anything which is in its opinion necessary or desirable to comply with any law or regulation in any jurisdiction.

16.5 **No Liability of Agent or Arranger**

Neither of the Security Trustee, the Agent nor any of their respective employees and agents shall:

- 16.5.1 be obliged to make any enquiry as to the use of any of the proceeds of the Loan unless (in the case of the Agent) so required in writing by a Lender, in which case the Agent shall promptly make the appropriate request to the Borrowers; or
- 16.5.2 be obliged to make any enquiry as to any breach or default by the Borrowers or any other Security Party in the performance or observance of any of the provisions of the Security Documents or as to the existence of a Default unless (in the case of the Agent) the Agent has actual knowledge thereof or has been notified in writing thereof by a Bank, in which case the Agent shall promptly notify the Banks of the relevant event or circumstance; or
- 16.5.3 be obliged to enquire whether or not any representation or warranty made by the Borrowers or any other Security Party pursuant to this Agreement or any of the other Security Documents is true; or
- 16.5.4 be obliged to do anything (including, without limitation, disclosing any document or information) which would, or might in its opinion, be contrary to any law or regulation or be a breach of any duty of confidentiality or otherwise be actionable or render it liable to any person; or
- 16.5.5 be obliged to account to any Lender for any sum or the profit element of any sum received by it for its own account; or
- 16.5.6 be obliged to institute any Proceedings arising out of or in connection with any of the Security Documents other than on the instructions of the Majority Lenders; or
- 16.5.7 be liable to any Lender for any action taken or omitted under or in connection with any of the Security Documents unless caused by its gross negligence or wilful misconduct.

For the purposes of this clause 16, neither of the Security Trustee, the Arranger or the Agent shall be treated as having actual knowledge of any matter of which the corporate finance or any other division outside the agency or loan administration department of the Arranger, the Security Trustee or the Agent or the person for the time being acting as the Arranger, the Security Trustee or the Agent may become aware in the context of corporate finance, advisory or lending activities from time to time undertaken by the Arranger, the Security Trustee or the Agent or, as the case may be, the Security Trustee or Agent for any Security Party or any other person which may be a trade competitor of any Security Party or may otherwise have commercial interests similar to those of any Security Party.

16.6 **Non-reliance on Arranger, Security Trustee or Agent**

Each Lender acknowledges that it has not relied on any statement, opinion, forecast or other representation made by the Arranger, the Security Trustee or the Agent to induce it to enter into any of the Security Documents and that it has made and will continue to make, without reliance on the Arranger, the Security Trustee or the Agent and based on such documents as it considers appropriate, its own appraisal of the creditworthiness of the Security Parties and its own independent investigation of the financial condition, prospects and affairs of the Security Parties in connection with the making and continuation of such Lender's Commitment or Contribution under this Agreement. None of the Arranger, the Security Trustee and the Agent shall have any duty or responsibility, either initially or on a continuing basis, to provide any Lender with any credit or other information with respect to any Security Party whether coming into its possession before the making of any Advance or the Loan or at any time or times thereafter other than as provided in clause 16.3.1.

- 16.7 **No responsibility on Arranger, Security Trustee or Agent for Borrowers' performance**
None of the Arranger, the Security Trustee or the Agent shall have any responsibility or liability to any Lender:
- 16.7.1 on account of the failure of any Security Party to perform its obligations under any of the Security Documents; or
- 16.7.2 for the financial condition of any Security Party; or
- 16.7.3 for the completeness or accuracy of any statements, representations or warranties in any of the Security Documents or any document delivered under any of the Security Documents; or
- 16.7.4 for the execution, effectiveness, adequacy, genuineness, validity, enforceability or admissibility in evidence of any of the Security Documents or of any certificate, report or other document executed or delivered under any of the Security Documents; or
- 16.7.5 to investigate or make any enquiry into the title of the Borrowers or any other Security Party to the Vessels or any other security or any part thereof; or
- 16.7.6 for taking or omitting to take any other action under or in relation to any of the Security Documents or any aspect of any of the Security Documents; or
- 16.7.7 on account of the failure of the Security Trustee to perform or discharge any of its duties or obligations under the Security Documents; or
- 16.7.8 otherwise in connection with the Security Documents or their negotiation or for acting (or, as the case may be, refraining from acting) in accordance with the instructions of the Lenders.
- 16.8 **Reliance on documents and professional advice**
Each of the Arranger, the Security Trustee and the Agent shall be entitled to rely on any communication, instrument or document believed by it to be genuine and correct and to have been signed or sent by the proper person and shall be entitled to rely as to legal or other professional matters on opinions and statements of any legal or other professional advisers selected or approved by it (including those in the Arranger's, Security Trustee's or Agent's employment).
- 16.9 **Other dealings**
Each of the Arranger, the Security Trustee and the Agent may, without any liability to account to the Lenders, accept deposits from, and generally engage in any kind of banking or other business with, and provide advisory or other services to, any Security Party or any company in the same group of companies as such Security Party or any of the Lenders as if it were not the Arranger, the Security Trustee or Agent.
- 16.10 **Rights of Agent, Agent as Lender; no partnership**
With respect to its own Commitment and Contribution (if any) the Security Trustee and the Agent shall have the same rights and powers under the Security Documents as any other Lender and may exercise the same as though it were not performing the duties and functions delegated to it under this Agreement and the term "Lenders" shall, unless the context clearly otherwise indicates, include the Security Trustee and the Agent in their respective individual capacity as a Lender. This Agreement shall not be construed so as to constitute a partnership between the parties or any of them.

16.11 **Amendments and waivers**

- 16.11.1 Subject to clause 16.11, the Arranger, the Security Trustee and/or the Agent (as the case may be) may, with the consent of the Majority Lenders (or if and to the extent expressly permitted by the other provisions of any of the Security Documents) and, if so instructed by the Majority Lenders, shall:
- 16.11.2 agree (or authorise the Security Trustee to agree) amendments or modifications to any of the Security Documents with the Borrowers and/or any other Security Party; and/or
- 16.11.3 vary or waive breaches of, or defaults under, or otherwise excuse performance of, any provision of any of the other Security Documents by the Borrowers and/or any other Security Party (or authorise the Security Trustee to do so).

Any such action so authorised and effected by the Agent shall be documented in such manner as the Security Trustee and/or the Agent (as the case may be) shall (with the approval of the Majority Lenders) determine, shall be promptly notified to the Lenders by the Security Trustee and/or the Agent (as the case may be) and (without prejudice to the generality of clause 16.2) shall be binding on the Lenders.

- 16.11.4 Except with the prior written consent of the Lenders, the Security Trustee and the Agent shall have no authority on behalf of the Lenders to agree (or authorise the Security Trustee to agree) with the Borrowers and/or any other Security Party any amendment or modification to any of the Security Documents or to grant (or authorise the Security Trustee to grant) waivers in respect of breaches or defaults or to vary or excuse (or authorise the Security Trustee to vary or excuse) performance of or under any of the Security Documents by the Borrowers and/or any other Security Party, if the effect of such amendment, modification, waiver or excuse would be to:
- (a) reduce the Margin, postpone the due date or reduce the amount of any payment of principal, interest or other amount payable by any Security Party under any of the Security Documents;
 - (b) change the currency in which any amount is payable by any Security Party under any of the Security Documents;
 - (c) increase any Lender's Commitment;
 - (d) extend any Maturity Date;
 - (e) change any provision of any of the Security Documents which expressly or impliedly requires the approval or consent of all the Lenders such that the relevant approval or consent may be given otherwise than with the sanction of all the Lenders;
 - (f) change the order of distribution under clauses 6.10 and 13.1;
 - (g) change this clause 16.11;
 - (h) change the definition of "**Majority Lenders**" in clause 1.2;

- (i) release any Security Party from the security constituted by any Security Document (except as required by the terms thereof or by law) or change the terms and conditions upon which such security or guarantee may be, or is required to be, released.

16.12 Reimbursement and indemnity by Lenders

Each Lender shall reimburse the Security Trustee and the Agent (rateably in accordance with such Lender's Commitment or, after the first Advance or the Loan has been drawn, its Contribution,) to the extent that the Security Trustee or the Agent is not reimbursed by the Borrowers, for the costs, charges and expenses incurred by the Security Trustee or the Agent which are expressed to be payable by the Borrowers under clause 5.3 including (in each case), without limitation, the fees and expenses of legal or other professional advisers provided that, if following any payment to the Security Trustee or the Agent by a Lender under this clause the Security Trustee or the Agent receives payment from the Borrowers in respect of the same costs, fees or expenses, the Security Trustee or the Agent shall upon receipt thereof reimburse the relevant Lender. Each Lender must on demand indemnify the Security Trustee or the Agent (rateably in accordance with such Lender's Commitment or, after the first Advance or the Loan has been drawn, its Contribution) against all liabilities, damages, costs and claims whatsoever incurred by the Security Trustee in connection with any of the Security Documents or the performance of its duties under any of the Security Documents or any action taken or omitted by the Security Trustee or, as the case may be, the Agent, under any of the Security Documents, unless such liabilities, damages, costs or claims arise from the Security Trustee's or as the case may be, the Agent's own gross negligence or wilful misconduct.

16.13 Retirement of the Agent

16.13.1 The Agent may, having given to the Borrowers and each of the Lenders not less than fifteen (15) days' notice of its intention to do so, retire from its appointment as the Agent under this Agreement, provided that no such retirement shall take effect unless there has been appointed by the Lenders as a successor agent:

- (a) a company in the same group of companies as the Agent,
- (b) a Lender nominated by the Majority Lenders or, failing such a nomination,
- (c) any reputable and experienced bank or financial institution nominated by the retiring Agent.

and written confirmation (in a form acceptable to the Lenders) of such acceptance agreeing to be bound by this Agreement in the capacity of the Agent as if it had been an original party to this Agreement.

Any corporation into which the retiring Agent and/or the retiring Security Trustee (as the case may be) may be merged or converted or any corporation with which the Security Trustee and/or the Agent (as the case may be) may be consolidated or any corporation resulting from any merger, conversion, amalgamation, consolidation or other reorganisation to which the Security Trustee or the Agent (as the case may be) shall be a party shall, to the extent permitted by applicable law, be the successor Agent or Security Trustee under this Agreement and the other Security Documents without the execution or filing of any document or any further act on the part of any of the parties to the Security Documents save that notice of any

such merger, conversion, amalgamation, consolidation or other reorganisation shall forthwith be given to each Security Party and the Lenders. Prior to any such successor being appointed, the Agent agrees to consult with the Borrowers and the Lenders as to the identity of the proposed successor and to take account of any reasonable objections which the Borrowers and the Lenders may raise to such successor being appointed.

- 16.13.2 If the Majority Lenders, acting reasonably, are of the opinion that the Security Trustee or Agent is unable to fulfil its respective obligations under this Agreement in a professional and acceptable manner, then they may require the Security Trustee or Agent, by written notice, to resign in accordance with clause 16.13.1, which the Agent shall promptly do, and the terms of clause 16.13.1 shall apply to the appointment of any substitute Security Trustee or Agent, save that the same shall be appointed by the Majority Lenders and not by all of the Lenders.
- 16.13.3 Upon any such successor as aforesaid being appointed, the retiring Agent or, as the case may be, the Security Trustee shall be discharged from any further obligation under the Security Documents (but shall continue to have the benefit of this clause 16 in respect of any action it has taken or refrained from taking prior to such discharge) and its successor and each of the other parties to this Agreement shall have the same rights and obligations among themselves as they would have had if such successor had been a party to this Agreement in place of the retiring Agent or Security Trustee. The retiring Agent or Agent shall (at its own expense) provide its successor with copies of such of its records as its successor reasonably requires to carry out its functions under the Security Documents.

16.14 **Appointment and retirement of Security Trustee**

16.14.1 Appointment

Each of the Banks irrevocably appoints the Security Trustee as its Security Trustee and trustee for the purposes of the Security Documents, in each case on the terms set out in this Agreement. Accordingly, each of the Lenders and the Agent hereby authorises the Security Trustee (whether or not by or through employees or agents) to take such action on its behalf and to exercise such rights, remedies, powers and discretions as are specifically delegated to the Security Trustee by this Agreement and/or the Security Documents, together with such powers and discretions as are reasonably incidental thereto.

16.14.2 Retirement

Without prejudice to clause 16.13, the Security Trustee may, having given to the Borrowers and each of the Lenders not less than fifteen (15) days' notice of its intention to do so, retire from its appointment as Security Trustee under this Agreement and any Trust Deed, provided that no such retirement shall take effect unless there has been appointed by the Lenders and the Agent as a successor Security Trustee and trustee:

- (a) a company in the same group of companies of the Security Trustee nominated by the Security Trustee which the Lenders hereby irrevocably and unconditionally agree to appoint or, failing such nomination,
- (b) a Lender or trust corporation nominated by the Majority Lenders or, failing such a nomination,

- (c) any bank or trust corporation nominated by the retiring Security Trustee, and, in any case, such successor Security Trustee and trustee shall have duly accepted such appointment by delivering to the Agent (i) written confirmation (in a form acceptable to the Agent) of such acceptance agreeing to be bound by this Agreement in the capacity of Security Trustee as if it had been an original party to this Agreement and (ii) a duly executed Trust Deed.

Any corporation into which the retiring Security Trustee may be merged or converted or any corporation with which the Security Trustee may be consolidated or any corporation resulting from any merger, conversion, amalgamation, consolidation or other reorganisation to which the Security Trustee shall be a party shall, to the extent permitted by applicable law, be the successor Security Trustee under this Agreement, any Trust Deed and the other Security Documents without the execution or filing of any document or any further act on the part of any of the parties to this Agreement, any Trust Deed and the other Security Documents save that notice of any such merger, conversion, amalgamation, consolidation or other reorganisation shall forthwith be given to each Security Party and the Lenders. Prior to any such successor being appointed, the Security Trustee agrees to consult with the Borrowers as to the identity of the proposed successor and to take account of any reasonable objections which the Borrowers may raise to such successor being appointed.

Upon any such successor as aforesaid being appointed, the retiring Security Trustee shall be discharged from any further obligation under the Security Documents (but shall continue to have the benefit of this clause 16 in respect of any action it has taken or refrained from taking prior to such discharge) and its successor and each of the other parties to this Agreement shall have the same rights and obligations among themselves as they would have had if such successor had been a party to this Agreement in place of the retiring Security Trustee. The retiring Security Trustee shall (at its own expense) provide its successor with copies of such of its records as its successor reasonably requires to carry out its functions under the Security Documents.

16.15 Powers and duties of the Security Trustee

16.15.1 The Security Trustee shall have no duties, obligations or liabilities to any of the Lenders and the Agent beyond those expressly stated in any of the Security Documents. Each of the Agent and the Lenders hereby authorises the Security Trustee to enter into and execute:

- (a) each of the Security Documents to which the Security Trustee is or is intended to be a party; and
- (b) any and all such other Security Documents as may be approved by the Agent in writing (acting on the instructions of the Majority Lenders) for entry into by the Security Trustee,

and, in each and every case, to hold any and all security thereby created upon trust for the Lenders and the Agent for the time being in the manner contemplated by this Agreement.

16.15.2 Subject to clause 16.15.3 the Security Trustee may, with the prior consent of the Majority Lenders communicated in writing by the Agent, concur with any of the Security Parties to:

- (a) amend, modify or otherwise vary any provision of the Security Documents to which the Security Trustee is or is intended to be a party; or

- (b) waive breaches of, or defaults under, or otherwise excuse performance of, any provision of the Security Documents to which the Security Trustee is or is intended to be a party; or
- (c) give any consents to any Security Party in respect of any provision of any Security Document.

Any such action so authorised and effected by the Security Trustee shall be promptly notified to the Lenders and the Agent by the Security Trustee and shall be binding on the other Banks.

- 16.15.3 The Security Trustee shall not concur with any Security Party with respect to any of the matters described in clause 16.11.4 without the consent of the Lenders communicated in writing by the Agent.
- 16.15.4 The Security Trustee shall (subject to the other provisions of this clause 16) take such action or, as the case may be, refrain from taking such action, with respect to any of its rights, powers and discretions as Security Trustee and trustee, as the Agent may direct. Subject as provided in the foregoing provisions of this clause, unless and until the Security Trustee has received such instructions from the Agent, the Security Trustee may, but shall not be obliged to, take (or refrain from taking) such action under or pursuant to the Security Documents referred to in clause 16.14 as the Security Trustee shall deem advisable in the best interests of the Banks provided that (for the avoidance of doubt), to the extent that this clause might otherwise be construed as authorising the Security Trustee to take, or refrain from taking, any action of the nature referred to in clause 16.15.2—and for which the prior consent of the Lenders is expressly required under clause 16.15.3—clauses 16.15.2 and 16.15.3 shall apply to the exclusion of this clause.
- 16.15.5 None of the Lenders nor the Agent shall have any independent power to enforce any of the Security Documents referred to in clause 16.14 or to exercise any rights, discretions or powers or to grant any consents or releases under or pursuant to such Security Documents or any of them or otherwise have direct recourse to the security and/or guarantees constituted by such Security Documents or any of them except through the Security Trustee.
- 16.15.6 For the purpose of this clause 16, the Security Trustee may, rely and act in reliance upon any information from time to time furnished to the Security Trustee by the Agent (whether pursuant to clause 16.15.7 or otherwise) unless and until the same is superseded by further such information, so that the Security Trustee shall have no liability or responsibility to any party as a consequence of placing reliance on and acting in reliance upon any such information unless the Security Trustee has actual knowledge that such information is inaccurate or incorrect.
- 16.15.7 Without prejudice to the foregoing each of the Agent and the Lenders (whether directly or through the Agent) shall provide the Security Trustee with such written information as it may reasonably require for the purpose of carrying out its duties and obligations under the Security Documents referred to in clause 16.14.
- 16.16 **Trust provisions**
- 16.16.1 The trusts constituted or evidenced in or by this Agreement and the Trust Deed shall remain in full force and effect until whichever is the earlier of:
- (a) the expiration of a period of eighty (80) years from the Execution Date; and

(b) receipt by the Security Trustee of confirmation in writing by the Agent that there is no longer outstanding any Indebtedness (actual or contingent) which is secured or guaranteed or otherwise assured by or under any of the Security Documents,

and the parties to this Agreement declare that the perpetuity period applicable to this Agreement and the trusts declared by the Trust Deed shall for the purposes of the Perpetuities and Accumulations Act 1964 be the period of eighty (80) years from the Execution Date.

16.16.2 In its capacity as trustee in relation to the Security Documents specified in clause 16.14, the Security Trustee shall, without prejudice to any of the powers, discretions and immunities conferred upon trustees by law (and to the extent not inconsistent with the provisions of any of those Security Documents), have all the same powers and discretions as a natural person acting as the beneficial owner of such property and/or as are conferred upon the Security Trustee by any of those Security Documents.

16.16.3 It is expressly declared that, in its capacity as trustee in relation to the Security Documents specified in clause 16.14, the Security Trustee shall be entitled, subject to the consent of the Lenders, to invest moneys forming part of the security and which, in the opinion of the Security Trustee, may not be paid out promptly following receipt in the name or under the control of the Security Trustee in any of the investments for the time being authorised by law for the investment by trustees of trust moneys or in any other property or investments whether similar to the aforesaid or not or by placing the same on deposit in the name or under the control of the Security Trustee as the Security Trustee may think fit without being under any duty to diversify its investments and the Security Trustee may at any time vary or transpose any such property or investments for or into any others of a like nature and shall not be responsible for any loss due to depreciation in value or otherwise of such property or investments. Any investment of any part or all of the security may, at the discretion of the Security Trustee, be made or retained in the names of nominees.

16.17 **Independent action by Banks**

None of the Banks shall enforce, exercise any rights, remedies or powers or grant any consents or releases under or pursuant to, or otherwise have a direct recourse to the security and/or guarantees constituted by any of the Security Documents without the prior written consent of the Majority Lenders but, provided such consent has been obtained, it shall not be necessary for any other Bank to be joined as an additional party in any Proceedings for this purpose.

16.18 **Common Agent and Security Trustee**

The Agent and the Security Trustee have entered into the Security Documents in their separate capacities (a) as agent for the Lenders under and pursuant to this Agreement (in the case of the Agent) and (b) as Security Trustee and trustee for the Lenders and the Agent under and pursuant to this Agreement, to hold the guarantees and/or security created by the Security Documents specified in clause 16.14 on the terms set out in such Security Documents (in the case of the Security Trustee). If and when the Agent and the Security Trustee are the same entity and any Security Document provides for the Agent to communicate with or provide instructions to the Security Trustee (and vice versa), all parties to this Agreement agree that any such communications or instructions on such occasions are unnecessary and are hereby waived.

16.19 **Co-operation to achieve agreed priorities of application**

The Lenders and the Agent shall co-operate with each other and with the Security Trustee and any receiver under the Security Documents in realising the property and assets subject to the Security Documents and in ensuring that the net proceeds realised under the Security Documents after deduction of the expenses of realisation are applied in accordance with clause 13.1.

16.20 **The Prompt distribution of proceeds**

Moneys received by any of the Banks (whether from a receiver or otherwise) pursuant to the exercise of (or otherwise by virtue of the existence of) any rights and powers under or pursuant to any of the Security Documents shall (after providing for all costs, charges, expenses and liabilities and other payments ranking in priority) be paid to the Agent for distribution (in the case of moneys so received by any of the Banks other than the Agent or the Security Trustee) and shall be distributed by the Agent or, as the case may be, the Security Trustee (in the case of moneys so received by the Agent or, as the case may be, the Security Trustee) in each case in accordance with clause 13.1. The Agent or, as the case may be, the Security Trustee shall make each such application and/or distribution as soon as is practicable after the relevant moneys are received by, or otherwise become available to, the Agent or, as the case may be, the Security Trustee save that (without prejudice to any other provision contained in any of the Security Documents) the Agent or, as the case may be, the Security Trustee (acting on the instructions of the Majority Lenders) or any receiver may credit any moneys received by it to a suspense account for so long and in such manner as the Agent or such receiver may from time to time determine with a view to preserving the rights of the Agent and/or the Security Trustee and/or the Arranger and/or the Account Bank and/or the Lenders or any of them to provide for the whole of their respective claims against the Borrowers or any other person liable.

16.21 **Reconventioning**

After consultation with the Borrowers and the Lenders and notwithstanding clause 16.11, the Agent shall be entitled to make such amendments to this Agreement as it may determine to be necessary to take account of any changes in market practices as a consequence of the European Monetary Union (whether as to the settlement or rounding of obligations, business days, the calculation of interest or otherwise whatsoever). So far as possible such amendments shall be such as to put the parties in the same position as if the event or events giving rise to the need to amend this Agreement had not occurred. Any amendment so made to this Agreement by the Agent shall be promptly notified to the other parties hereto and shall be binding on all parties hereto.

16.22 **Exclusivity**

Without prejudice to the Borrowers' rights, in certain instances, to give their consent thereunder, clauses 15 and 16 are for the exclusive benefit of the Banks.

17 **NOTICES AND OTHER MATTERS**

17.1 **Notices**

17.1.1 unless otherwise specifically provided herein, every notice under or in connection with this Agreement shall be given in English by letter delivered personally and/or sent by post and/or transmitted by fax and/or electronically;

17.1.2 in this clause “notice” includes any demand, consent, authorisation, approval, instruction, certificate, request, waiver or other communication.

17.2 **Addresses for communications, effective date of notices**

17.2.1 Subject to clause 17.2.2, clause 17.2.5 and 17.3 notices to the Borrowers shall be deemed to have been given and shall take effect when received in full legible form by the Borrowers at the address and/or fax number and/or email address appearing below (or at such other address or fax number or email address as the Borrowers may hereafter specify for such purpose to the Agent by notice in writing);

Address c/o Navios Shipmanagement Inc.
85 Akti Miaouli
185 38 Piraeus
Greece

Fax no: + 30 210 453 1984

Email: legal_corp@Navios.com

17.2.2 notwithstanding the provisions of clause 17.2.1 or clause 17.2.5, a notice of Default and/or a notice given pursuant to clause 10.2 or clause 10.3 to the Borrowers shall be deemed to have been given and shall take effect when delivered, sent or transmitted by the Banks or any of them to the Borrowers to the address or fax number or email address referred to in clause 17.2.1;

17.2.3 subject to clause 17.2.5, notices to the Agent and/or Account Bank and/or Security Trustee shall be deemed to be given, and shall take effect, when received in full legible form by the Agent and/or the Security Trustee at the address and/or fax number and/or email address appearing below (or at any such other address or fax number or email address as the Agent and/or the Security Trustee (as appropriate) may hereafter specify for such purpose to the Borrowers and the other Lenders by notice in writing);

Agent: Hellenic Bank Public Company Limited

Address: Corner Limassol Avenue & 200 Athalassa Avenue
2025 Strovolos
Nicosia
Cyprus

Fax: +357 225000095

Attn: Mr Antonios Spanakis

Email: shipfinance@hellenicbank.com

17.2.4 subject to clause 17.2.5 and 17.3, notices to a Lender shall be deemed to be given and shall take effect when received in full legible form by such Lender at its address and/or fax number and/or email address specified in schedule 1 or in any relevant Transfer Certificate (or at any other address or fax number or email address as such Lender may hereafter specify for such purpose to the other Banks); and

17.2.5 if under clause 17.2.1 or clause 17.2.3 a notice would be deemed to have been given and been effective on a day which is not a working day in the place of receipt or is outside the normal business hours in the place of receipt, the notice shall be deemed to have been given and to have taken effect at the opening of business on the next working day in such place.

17.3 **Electronic Communication**

17.3.1 Any communication to be made by and/or between the Banks or any of them and the Security Parties or any of them under or in connection with the Security Documents or any of them may be made by electronic mail or other electronic means, if and provided that all such parties:

(a) 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

(b) notify each other of any change to their electronic mail address or any other such information supplied by them.

17.3.2 Any electronic communication made by and/or between the Banks or any of them and the Security Parties or any of them will be effective only when actually received in readable form and, in the case of any electronic communication made by the Borrowers or the Lenders to the Agent, only if it is addressed in such manner as the Agent shall specify for this purpose.

17.4 **Notices through the Agent**

Every notice under this Agreement or (unless otherwise provided therein) any other Security Document to be given by the Borrowers to any other party, shall be given to the Agent for onward transmission as appropriate and every notice under this Agreement to be given to the Borrowers shall (except as otherwise provided in the Security Documents) be given to the Borrowers by the Agent.

18 **BORROWERS' OBLIGATIONS**

18.1 **Joint and several**

Regardless of any other provision in any of the Security Documents, all obligations and liabilities whatsoever of the Borrowers herein contained are joint and several and shall be construed accordingly. Each of the Borrowers agrees and consents to be bound by the Security Documents to which it becomes a party notwithstanding that the other Borrower may not do so or be effectually bound and notwithstanding that any of the Security Documents may be invalid or unenforceable against the other Borrower, whether or not the deficiency is known to any Bank.

18.2 **Borrowers as principal debtors**

Each Borrower acknowledges that it is a principal and original debtor in respect of all amounts which may become payable by the Borrowers in accordance with the terms of any of the Security Documents and agrees that each Bank may continue to treat it as such, whether or not such Bank is or becomes aware that such Borrower is or has become a surety for the other Borrower.

18.3 **Indemnity**

The Borrowers undertake to keep the Banks fully indemnified on demand against all claims, damages, losses, costs and expenses arising from any failure of any Borrower to perform or discharge any purported obligation or liability of that Borrower which would have been the subject of this Agreement or any other Security Document had it been valid and enforceable and which is not or ceases to be valid and enforceable against the other Borrower on any ground whatsoever, whether or not known to any Bank including, without limitation, any irregular exercise or absence of any corporate power or lack of authority of, or breach of duty by, any person purporting to act on behalf of the other Borrower (or any legal or other limitation, whether under the Limitation Acts or otherwise or any disability or death, bankruptcy, unsoundness of mind, insolvency, liquidation, dissolution, winding up, administration, receivership, amalgamation, reconstruction or any other incapacity of any person whatsoever (including, in the case of a partnership, a termination or change in the composition of the partnership) or any change of name or style or constitution of any Security Party)).

18.4 **Liability unconditional**

None of the obligations or liabilities of the Borrowers under any Security Document shall be discharged or reduced by reason of:

18.4.1 the death, bankruptcy, unsoundness of mind, insolvency, liquidation, dissolution, winding-up, administration, receivership, amalgamation, reconstruction or other incapacity of any person whatsoever (including, in the case of a partnership, a termination or change in the composition of the partnership) or any change of name or style or constitution of any Borrower or any other person liable;

18.4.2 any Bank granting any time, indulgence or concession to, or compounding with, discharging, releasing or varying the liability of, any Borrower or any other person liable or renewing, determining, varying or increasing any accommodation, facility or transaction or otherwise dealing with the same in any manner whatsoever or concurring in, accepting, varying any compromise, arrangement or settlement or omitting to claim or enforce payment from any Borrower or any other person liable; or

18.4.3 anything done or omitted which but for this provision might operate to exonerate the Borrowers or all of them.

18.5 **Recourse to other security**

No Bank shall be obliged to make any claim or demand or to resort to any security or other means of payment now or hereafter held by or available to them for enforcing any of the Security Documents against any Borrower or any other person liable and no action taken or omitted by any Bank in connection with any such security or other means of payment will discharge, reduce, prejudice or affect the liability of the Borrowers under the Security Documents to which any of them is, or is to be, a party.

18.6 **Waiver of Borrowers' rights**

Each Borrower agrees with the Banks that, throughout the Facility Period, it will not, without the prior written consent of the Agent:

18.6.1 exercise any right of subrogation, reimbursement and indemnity against the other Borrower or any other person liable under the Security Documents;

- 18.6.2 demand or accept repayment in whole or in part of any Indebtedness now or hereafter due to such Borrower from the other Borrower or from any other person liable for such Indebtedness or demand or accept any guarantee against financial loss or any document or instrument created or evidencing an Encumbrance in respect of the same or dispose of the same;
- 18.6.3 take any steps to enforce any right against the other Borrower or any other person liable in respect of any such moneys; or
- 18.6.4 claim any set-off or counterclaim against the other Borrower or any other Security Party or claim or prove in competition with any Bank in the liquidation of the other Borrower or any other person liable or have the benefit of, or share in, any payment from or composition with, the other Borrower or any other person liable or any security granted under any Security Document now or hereafter held by any Bank for any moneys owing under this Agreement or for the obligations or liabilities of any other person liable but so that, if so directed by the Agent, it will prove for the whole or any part of its claim in the liquidation of the other Borrower or other person liable on terms that the benefit of such proof and all money received by it in respect thereof shall be held on trust for the Banks and applied in or towards discharge of any moneys owing under this Agreement in such manner as the Agent shall require.

19 **GOVERNING LAW**

This Agreement and any non-contractual obligations arising out of or in connection with it is governed by and shall be construed in accordance with English law.

20 **JURISDICTION**

20.1 **Exclusive Jurisdiction**

For the benefit of the Banks, and subject to clause 20.4 below, the Borrowers hereby irrevocably agree that the courts of England shall have exclusive jurisdiction:

- 20.1.1 to settle any disputes or other matters whatsoever arising under or in connection with this Agreement or any non-contractual obligation arising out of or in connection with this Agreement and any disputes or other such matters arising in connection with the negotiation, validity or enforceability of this Agreement or any part thereof, whether the alleged liability shall arise under the laws of England or under the laws of some other country and regardless of whether a particular cause of action may successfully be brought in the English courts; and
- 20.1.2 to grant interim remedies or other provisional or protective relief.

20.2 **Submission and service of process**

Each Borrower accordingly irrevocably and unconditionally submits to the jurisdiction of the English courts. Without prejudice to any other mode of service each Borrower:

- 20.2.1 irrevocably empowers and appoints Hill Dickinson Services (London) Ltd. at present of The Broadgate Tower, 20 Primrose Street, London EC2A 2EW, England, as its agent to receive and accept on its behalf any process or other document relating to any proceedings before the English courts in connection with this Agreement;
- 20.2.2 agrees to maintain such an agent for service of process in England from the date hereof until the end of the Facility Period;


- 20.2.3 agrees that failure by a process agent to notify the Borrowers of service of process will not invalidate the proceedings concerned;
- 20.2.4 without prejudice to the effectiveness of service of process on its agent under clause 20.2.1 above but as an alternative method, consents to the service of process relating to any such proceedings by mailing or delivering a copy of the process to its address for the time being applying under clause 17.2;
- 20.2.5 agrees that if the appointment of any person mentioned in clause 20.2.1 ceases to be effective, the Borrowers shall immediately appoint a further person in England to accept service of process on its behalf in England and, failing such appointment within seven (7) days the Agent shall thereupon be entitled and is hereby irrevocably authorised by the Borrowers in those circumstances to appoint such person by notice to the Borrowers.
- 20.3 **Forum non conveniens and enforcement abroad**
- Each Borrower:
- 20.3.1 waives any right and agrees not to apply to the English court or other court in any jurisdiction whatsoever to stay or strike out any proceedings commenced in England on the ground that England is an inappropriate forum and/or that Proceedings have been or will be started in any other jurisdiction in connection with any dispute or related matter falling within clause 20.1; and
- 20.3.2 agrees that a judgment or order of an English court in a dispute or other matter falling within clause 20.1 shall be conclusive and binding on the Borrowers and may be enforced against them in the courts of any other jurisdiction.
- 20.4 **Right of Security Trustee, but not Borrowers, to bring proceedings in any other jurisdiction**
- 20.4.1 Nothing in this clause 20 limits the right of any Lender to bring Proceedings, including third party proceedings, against any one or all Borrowers, or to apply for interim remedies, in connection with this Agreement in any other court and/or concurrently in more than one jurisdiction;
- 20.4.2 the obtaining by any Lender of judgment in one jurisdiction shall not prevent such Lender from bringing or continuing proceedings in any other jurisdiction, whether or not these shall be founded on the same cause of action.
- 20.5 **Enforceability despite invalidity of Agreement**
- Without prejudice to the generality of clause 13.9, the jurisdiction agreement contained in this clause 20 shall be severable from the rest of this Agreement and shall remain valid, binding and in full force and shall continue to apply notwithstanding this Agreement or any part thereof being held to be avoided, rescinded, terminated, discharged, frustrated, invalid, unenforceable, illegal and/or otherwise of no effect for any reason.
- 20.6 **Effect in relation to claims by and against non-parties**
- 20.6.1 For the purpose of this clause “Foreign Proceedings” shall mean any Proceedings except proceedings brought or pursued in England arising out of or in connection with (i) or in any way related to any of the Security Documents or any assets subject thereto or (ii) any action of any kind whatsoever taken by any Bank pursuant thereto or which would, if brought by any or all of the Borrowers against the Banks, have been required to be brought in the English courts;

- 20.6.2 no Borrower shall bring or pursue any Foreign Proceedings against any Bank and shall use its best endeavours to prevent persons not party to this Agreement from bringing or pursuing any Foreign Proceedings against any Bank;
- 20.6.3 If, for any reason whatsoever, any Security Party and/or any person connected howsoever with any Security Party brings or pursues against any Bank any Foreign Proceedings, the Borrowers shall indemnify such Bank on demand in respect of any and all claims, losses, damages, demands, causes of action, liabilities, costs and expenses (including, but not limited to, legal costs) of whatsoever nature howsoever arising from or in connection with such Foreign Proceedings which such Bank (or the Agent on its behalf) certifies as having been incurred by it;
- 20.6.4 the Banks and the Borrowers hereby agree and declare that the benefit of this clause 20 shall extend to and may be enforced by any officer, employee, agent or business associate of any of the Banks against whom a Borrower brings a claim in connection howsoever with any of the Security Documents or any assets subject thereto or any action of any kind whatsoever taken by, or on behalf of or for the purported benefit of any Bank pursuant thereto or which, if it were brought against any Bank, would fall within the material scope of clause 20.1. In those circumstances this clause 20 shall be read and construed as if references to any Bank were references to such officer, employee, agent or business associate, as the case may be.

IN WITNESS whereof the parties to this Agreement have caused this Agreement to be duly executed on the date first above written.

SIGNED as a deed for and on behalf of
CRONUS SHIPPING CORPORATION
by **STRATIGOULA SAKELLARIOU**
(as Borrower under and pursuant to
a power of attorney dated 24 June 2020)

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in the presence of
PANAGIOTIS FOKAS
Ince
Akti Miaouli 47-49
Piraeus 185 36 Greece



SIGNED as a deed for and on behalf of
DIONYSUS SHIPPING CORPORATION
by **STRATIGOULA SAKELLARIOU**
(as Borrower under and pursuant to
a power of attorney dated 24 June 2020)

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in the presence of
PANAGIOTIS FOKAS
Ince
Akti Miaouli 47-49
Piraeus 185 36 Greece



SIGNED as a deed for and on behalf of
OCEANUS SHIPPING CORPORATION
By **STRATIGOULA SAKELLARIOU**
(as Borrower under and pursuant to
a power of attorney dated 24 June 2020)

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in the presence of
PANAGIOTIS FOKAS
Ince
Akti Miaouli 47-49
Piraeus 185 36 Greece



SIGNED as a deed for and on behalf of
PROMETHEUS SHIPPING CORPORATION
by **STRATIGOULA SAKELLARIOU**
(as Borrower under and pursuant to
a power of attorney dated 24 June 2020)

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in the presence of
PANAGIOTIS FOKAS
Ince
Akti Miaouli 47-49
Piraeus 185 36 Greece



SIGNED by **STAVROULA MYLONA**
for and on behalf of
HELLENIC BANK PUBLIC COMPANY LIMITED
(as a Lender)

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in the presence of

PANAGIOTIS FOKAS

Ince
Akti Miaouli 47-49
Piraeus 185 36 Greece



SIGNED by **STAVROULA MYLONA**
for and on behalf of
HELLENIC BANK PUBLIC COMPANY LIMITED
(as Arranger, Account Bank, Agent and Security Trustee)

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in the presence of

PANAGIOTIS FOKAS

Ince
Akti Miaouli 47-49
Piraeus 185 36 Greece



Date 26 June 2020

NAVIOS MARITIME PARTNERS L.P.
as Borrower

- and -

THE BANKS AND FINANCIAL INSTITUTIONS
listed in Schedule 1
as Lenders

- and -

ABN AMRO BANK N.V.
as Agent and as Security Trustee

FACILITY AGREEMENT

INCE

PIRAEUS

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BETWEEN

- (1) **NAVIOS MARITIME PARTNERS L.P.**, as **Borrower**;
- (2) **THE BANKS AND FINANCIAL INSTITUTIONS** listed in Schedule 1, as **Lenders**;
- (3) **ABN AMRO BANK N.V.**, as **Agent**; and
- (4) **ABN AMRO BANK N.V.**, as **Security Trustee**.

BACKGROUND

- (A) The Lenders have agreed to make available to the Borrower a loan in an amount not exceeding the lesser of (i) thirty two million two hundred thousand Dollars (\$32,200,000) and (ii) 60% of the aggregate Fair Market Value of the Ships (determined in accordance with the provisions contained in Schedule 3, Part B (Paragraph 5) and not earlier than 30 days before the Drawdown Date), in a single advance, for the purpose of enabling the Borrower to on-lend the same to the Shareholder to finance the acquisition of all the shares in each Guarantor.
- (B) The Lenders have agreed to share pari passu in the security to be granted to the Security Trustee pursuant to this Agreement.

IT IS AGREED as follows:

1 INTERPRETATION

1.1 Definitions. Subject to Clause 1.5, (*General Interpretation*) in this Agreement (including in the above recitals):

“**Account Bank**” means ABN AMRO Bank N.V. acting through its branch at Gustav Mahlerlaan 10, 1082 PP Amsterdam, The Netherlands, or such other bank as may be designated by the Agent as the Account Bank for the purposes of this Agreement and which is of a rating acceptable to the Lenders, in their sole discretion;

“**Account Security Deed**” means a deed creating security (i) in respect of the Retention Account and (ii) in respect of the Earnings Account of each Guarantor, in the agreed form;

“**Actual Transfer Date**” means, in relation to each Guarantor, the day on which all the shares in each Guarantor are actually transferred by the Seller to the Shareholder pursuant to the terms of the SPA;

“**Affected Lender**” has the meaning given in Clause 5.7 (*Market disruption*);

“**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;

“**Agency and Trust Deed**” means the agency and trust deed dated the same date as this Agreement and made between the same parties;

“**Agent**” means ABN AMRO Bank N.V., duly incorporated under the laws of Netherlands, having its registered office at Gustav Mahlerlaan 10, 1082 PP Amsterdam, The Netherlands, acting for the purposes of this Agreement through its office at Gustav Mahlerlaan 10, 1082 PP Amsterdam, The Netherlands, (or of such other address as may last have been notified to the Borrower) or any successor of it appointed under clause 5 (*Appointment of a new Servicing Bank*) of the Agency and Trust Deed;

“**Agreed Form**” means, in relation to any document, that document in the form approved in writing by the Agent or as otherwise approved in accordance with any other approved procedure specified in any relevant provision of any Finance Document;

“**Approved Broker**” means each of (i) H. Clarkson & Co. Ltd. of St Magnus House, 3 Lower Thames Street, London EC3R 6HE, England, (ii) Arrow Sale & Purchase (UK) Limited of Harbour House, Chelsea Harbour, London SW10 0XE, England, (iii) SSY Valuation Services Limited of Lloyds Chambers, 1 Portsoken Street, London E1 8PH, England, (iv) Fearnleys of P.O. Box 1158 Sentrum, 0107 Oslo, Norway, (v) Maersk Broker K/S, Midtermolen 1, 2100 Copenhagen, Denmark, (vi) Braemar Seascope Limited of One Strand, Trafalgar Square, London WC2N 5HR, England, (vii) E.A. Gibson Shipbrokers Ltd., Audrey House, 16-20 Ely Place, London EC1N 6SN, England, (viii) BRS of 11 Boulevard Jean Mermoz, 92200 Neuilly-sur-Seine, France and (ix) Howe Robinson Partners of 3rd Floor, 40 Gracechurch St, London EC3V 0BT, United Kingdom, or such other reputable, independent and first class firm of shipbrokers specialising in the valuation of vessels of the relevant type requested by the Borrower and agreed upon and appointed by the Agent at its sole discretion;

“**Approved Flag**” means the Republic of Liberia, the Republic of Marshall Islands, the Republic of Cyprus, the Republic of Panama or such other flag as the Agent may, with the authorisation of all the Lenders, in their absolute discretion, approve as the flag on which a Ship may be registered;

“**Approved Flag State**” means the Republic of Liberia, the Republic of Marshall Islands, the Republic of Cyprus, the Republic of Panama or any other country in which the Agent may with the authorisation of all the Lenders, approve that a Ship be registered;

“**Approved Manager**” means, in relation to each Ship, Navios Shipmanagement 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, Marshall Islands MH 96960 or any other company Affiliate of the Approved Manager and/or of Angeliki Frangou which the Agent may, with the authorisation of the Majority Lenders, approve from time to time as the technical and/or commercial manager of a Ship (such approval not to be unreasonably withheld);

“**Availability Period**” means the period commencing on the date of this Agreement and ending on the earliest of (a) 15 July 2020 and (b) any date on which (i) the aggregate of the Loan is equal to the Total Commitments or (ii) the Total Commitments are reduced to zero; or, in each case, such later date as the Agent may, with the authorisation of all the Lenders, agree with the Borrower;

“**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”;

“**Basel IV**” means any amendment, replacement or refinement of Basel III known or to be known as “Basel IV”;

“**Benchmark Discontinuation Date**” means the earlier of (i) the date on which an administrator of the Screen Rate permanently ceases to provide the Screen Rate or (ii) the date from which the Screen Rate may, for any other reason, no longer be used for the purposes of this Agreement including but not limited to as a result of (A) a substantial change in the economic characteristics or method of calculation of the Screen Rate, (B) any withdrawal of the administrator’s right to publish the Screen Rate or (C) any prohibition for financial institutions to use the Screen Rate;

“**Borrower**” means Navios Maritime Partners L.P., a limited partnership formed in the Marshall Islands and having its registered office at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands, MH96960;

“**Business Day**” means a day (other than a Saturday and a Sunday) on which commercial banks are open in Athens, Piraeus, Amsterdam and Rotterdam and, in respect of a day on which:

- (a) LIBOR is to be determined, also in London; and
- (b) a payment is required to be made under a Finance Document in Dollars, also in New York City;

“**Change of Control Event**” means the occurrence after the date of this Agreement of any of the following:

- (a) the Permitted Owners sell any shares in the Borrower which would reduce the proportion of issued shares owned by them in aggregate in the Borrower to below 20%; or
- (b) the Borrower issues further shares which would reduce the proportion of issued shares in the Borrower owned by the Permitted Owners in aggregate to below 20%;

“**Charter Assignment**” means, in relation to any Extended Employment Contract over a Ship, the assignment thereof in the Agreed Form;

“**Code**” means the US Internal Revenue Code of 1986, as amended, and the regulations promulgates and rulings issued thereunder;

“**Commitment**” means in relation to a Lender, the amount set opposite its name in the second column of Schedule 1, or, as the case may require, the amount specified in the relevant Transfer Certificate, as that amount may be reduced, cancelled or terminated in accordance with this Agreement (and “**Total Commitments**” means the aggregate of the Commitments of all the Lenders);

“**Compliance Certificate**” means a certificate in the form set out in Schedule 5 (or in any other form which the Agent, acting with the authorisation of all the Lenders, approves or requires);

“**Confidential Information**” means all information relating to a Security Party, the Group, the Finance Documents or the Loan of which a Creditor Party becomes aware in its capacity as, or for the purpose of becoming, a Creditor Party or which is received by a Creditor Party in relation to, or for the purpose of becoming a Creditor Party under, the Finance Documents or the Facility from either:

- (a) any member of the Group or any of its advisers; or
- (b) another Creditor Party, if the information was obtained by that Creditor 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 information that:

- (i) is or becomes public information other than as a direct or indirect result of any breach by that Creditor Party of Clauses 26.16 to 26.23 (inclusive) (*Confidentiality*); 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

is known by that Creditor Party before the date the information is disclosed to it in accordance with paragraphs (a) or (b) above or is lawfully obtained by that Creditor Party after that date, from a source which is, as far as that Creditor Party is aware, unconnected with the Group and which, in either case, as far as that Creditor Party is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality

“**Contractual Currency**” has the meaning given in Clause 21.4 (*Currency indemnity*);

“**Contribution**” means, in relation to a Lender, the part of the Loan which is owing to that Lender;

“**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;

“**CRR**” means Regulations (EU) No. 575/2013 of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending regulation (EU) No. 648/2012

“**Creditor Party**” means the Agent, the Security Trustee, or any Lender, whether as at the date of this Agreement or at any later time;

“**Dollars**”, “**USD**”, “**US\$**” and “**\$**” mean the lawful currency for the time being of the United States of America;

“**Drawdown Date**” means the date requested by the Borrower for the Loan to be made, or (as the context requires) the date on which the Loan is actually made;

“**Drawdown Notice**” means a notice in the form set out in Schedule 2 (or in any other form which the Agent approves or reasonably requires);

“**Earnings**” means, in relation to a Ship, all moneys whatsoever which are now, or later become, payable (actually or contingently) to the Borrower or a Guarantor owning such Ship or the Security Trustee and which arise out of the use or operation of such Ship, including (but not limited to):

- (a) except to the extent that they fall within paragraph (b):
 - (i) all freight, hire and passage moneys;
 - (ii) compensation payable to the Borrower or the Guarantor which owns that Ship or a Security Party in the event of requisition of that Ship for hire;
 - (iii) remuneration for salvage and towage services;
 - (iv) demurrage and detention moneys;
 - (v) damages for breach (or payments for variation or termination) of any charterparty or other contract for the employment of that Ship; and
 - (vi) all moneys which are at any time payable under any Insurances relating to that Ship in respect of loss of hire; and
- (b) if and whenever that Ship is employed on terms whereby any moneys falling within paragraphs (i) to (vi) 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 each Guarantor, an account in the name of such Guarantor with the Account Bank designated “[*name of relevant Guarantor*] - Earnings Account”, or any other account (with that or another office of the Account Bank or with a bank or financial institution other than the Account Bank) which is designated by the Agent as such account in relation to that Guarantor for the purposes of this Agreement;

“**EBITDA**” means the aggregate amount of combined pre-tax profits of the Group before extraordinary or exceptional items, interest, depreciation and amortisation as shown, at any relevant time, by the Latest Accounts ;

“**Environmental Claim**” means:

- (a) any claim by any governmental, judicial or regulatory authority which arises out of an Environmental Incident or an alleged Environmental Incident or which relates to any Environmental Law; or
- (b) any claim by any other person which relates to an Environmental Incident or to an alleged Environmental Incident,

and “**claim**” means a claim for damages, compensation, fines, penalties or any other payment of any kind 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 of Environmentally Sensitive Material from a Ship; or
- (b) any incident in which Environmentally Sensitive Material is released from a vessel other than a Ship and which involves a collision between a 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 the Borrower and/or a Guarantor and/or the Approved Manager and/or the Third Party Manager 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 otherwise than from a Ship and in connection with which a Ship is actually or potentially liable to be arrested and/or where the Borrower and/or a Guarantor and/or the Approved Manager and/or the Third Party Manager 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 law relating to pollution or protection of the environment, to the carriage of Environmentally Sensitive Material or to actual or threatened releases of Environmentally Sensitive Material;

“**Environmentally Sensitive Material**” means oil, oil products 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 of the events or circumstances described in Clause 19.1 (*Events of Default*);

“**Existing Indebtedness**” means the outstanding Financial Indebtedness of the Seller under the Existing Loan Agreement on the Drawdown Date;

“**Existing Loan Agreement**” means the loan agreement dated 12 December 2019 (as amended and/or supplemented from time to time) and entered into between (inter alios) (i) the Borrower and (ii) the Agent in respect of a loan facility of (originally) US\$23,500,000 for the purposes therein specified;

“**Extended Employment Contract**” means, in respect of a Ship, any time charterparty, contract of affreightment or other contract of employment of such Ship (including the entry of a Ship in any pool) which has a tenor exceeding twelve (12) months (including any options to renew or extend such tenor);

“**Fair Market Value**” means, in relation to a Ship, its market value determined in accordance with Clause 15.3 (*Valuation of Ship*);

“**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 “passthru payment” described in section 1471(d)(7) of the Code not falling within paragraph 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 or under FATCA;

“**FATCA Exempt Party**” means a party to a Finance Document that is entitled to receive payments free from any FATCA Deduction;

“**Finance Documents**” means collectively:

- (a) this Agreement;
- (b) the Agency and Trust Deed;
- (c) the Guarantees;
- (d) the General Assignments;
- (e) the Mortgages;
- (f) the Account Security Deed;
- (g) any Charter Assignments;
- (h) the Manager’s Undertakings;
- (i) the Shares Pledges;
- (j) any Subordinated Debt Security;
- (k) any Subordination Deed;
- (l) the Insurances Assignments; and
- (m) any other document (whether creating a Security Interest or not) which is executed at any time by the Borrower or any other person as security for, or to establish any form of subordination or priorities arrangement in relation to, any amount payable to the Creditor Parties under this Agreement or any of the other documents referred to in this definition including, without limitation, any co-assured assignments of Insurances in respect of a Ship and any further undertakings and assignments of Insurances in respect of a Ship by any manager or sub-manager of a Ship;

(and a “**Finance Document**” means each or, as the context may require, any of them);

“**Financial Indebtedness**” means, in relation to a person (the “**debtor**”), a liability of the debtor:

- (a) for principal, interest or any other sum payable in respect of any moneys borrowed or raised by the debtor;
- (b) under any loan stock, bond, note or other security issued by the debtor;
- (c) under any acceptance credit, guarantee or letter of credit facility or dematerialised equivalent made available to the debtor;

- (d) under a financial lease, a deferred purchase consideration arrangement or any other agreement having the commercial effect of a borrowing or raising of money by the debtor;
- (e) under any foreign exchange transaction, any interest or currency swap or any other kind of derivative transaction entered into by the debtor or, if the agreement under which any such transaction is entered into requires netting of mutual liabilities, the liability of the debtor for the net amount; or
- (f) under a guarantee, indemnity or similar obligation entered into by the debtor in respect of a liability of another person which would fall within paragraphs (a) to (e) if the references to the debtor referred to the other person

“**Financial Year**” means, each period of 12 months ending on 31 December other than in the case of the first year which may be such shorter period commencing from the date of incorporation of the relevant company or corporation or limited partnership or such other date as the Majority Lenders may agree (such agreement not to be unreasonably withheld);

“**General Assignment**” means, in relation to a Ship, a general assignment of its Earnings, Insurances and Requisition Compensation in the Agreed Form (and “**General Assignments**” means all of them collectively);

“**Group**” means at any relevant time the Borrower and its Subsidiaries;

“**Group Member**” means any member of the Group;

“**Guarantee**” means each guarantee and indemnity to be executed by the relevant Guarantor in favour of the Security Trustee in the Agreed Form (and “**Guarantees**” means all of them collectively);

“**Guarantor**” means each of the following corporations, each of which is incorporated in the Marshall Islands, and has its registered office at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands, MH96960:

- (a) Fandango Shipping Corporation (“**Guarantor A**”);
- (b) Flavescent Shipping Corporation (“**Guarantor B**”);
- (c) Sunstone Shipping Corporation (“**Guarantor C**”);
- (d) Wenge Shipping Corporation (“**Guarantor D**”); and
- (e) Zaffre Shipping Corporation (“**Guarantor E**”);

and “**Guarantors**” means all of them;

“**Holding Company**” means, in relation to a company or corporation or limited partnership, any other company or corporation or limited partnership in respect of which it is a Subsidiary;

“**IACS**” means the International Association of Classification Societies;

“**IAPPC**” means, in relation to a Ship, a valid international air pollution prevention certificate for such Ship issued pursuant to the MARPOL Protocol;

“**Indebtedness**” means any obligation howsoever arising (whether present or future, actual or contingent, secured or unsecured as principal, surety or otherwise) for the payment or repayment of money;

“**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, which are effected in respect of that Ship, its Earnings or otherwise in relation to it; and
- (b) all rights and other assets relating to, or derived from, any of the foregoing, including any rights to a return of a premium;

“**Insurances Assignment**” means, in respect of each Ship, an assignment of its Insurances executed or to be executed by any co-assured (other than the relevant Owner) in favour of the Security Trustee in such form as the Security Trustee may require in its sole discretion, and in the plural means all of them;

“**Interest Expense**” means, for any relevant financial year, the aggregate interest paid or payable by the Group and any member thereof on any Indebtedness during such period;

“**Interest Period**” means a period determined in accordance with Clause 6 (*Interest Periods*);

“**ISM Code**” means the International Safety Management Code (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);

“**ISPS Code**” means the International Ship and Port Facility Security Code as adopted by the International Maritime Organisation (as the same may be amended and supplemented from time to time);

“**ISSC**” means a valid and current international ship security certificate issued under the ISPS Code;

“**Latest Accounts**” means, as at the date of calculation or, as the case may be, in respect of an accounting period, the annual audited consolidated financial statements of the Borrower or the quarterly unaudited consolidated financial statements of the Borrower, in each case, which the Borrower is obliged to deliver to the Agent pursuant to Clause 11.6 (*Provisions of financial statements*);

“**Lender**” means, subject to Clause 26.6 (*Lender re-organisation; waiver of Transfer Certificate*):

- (a) a bank or financial institution listed in Schedule 1 and acting through its branch indicated in Schedule 1 (or through another branch notified to the Agent under Clause 26.14 (*Change of lending or booking office*)) unless it has delivered a Transfer Certificate or Certificates covering the entire amounts of its Commitment and its Contribution; and
- (b) the holder for the time being of a Transfer Certificate;

“**LIBOR**” means, in relation to any period for which an interest rate is to be determined under any provision of a Finance Document:

- (a) the applicable Screen Rate; or

- (b) if no Screen Rate is available for that period, the rate per annum determined by the Agent to be the arithmetic mean (rounded upwards to 4 decimal places) of the rates as supplied to the Agent at its request, quoted by each Reference Bank to leading banks in the London Interbank Market;

as of 11:00 am London time on the Quotation Day for dollars and for a period comparable to the Interest Period of the Loan, that part of the Loan or that Unpaid Sum and if any such rate is less than zero LIBOR shall be deemed to be zero;

“**Liquidity**” means:

- (a) cash in hand legally and beneficially owned by any Group Member; and
- (b) cash deposits legally and beneficially owned by any Group Member and which are deposited with (A) the Account Bank or (B) any other bank or financial institution,

which in each case is at the free and unrestricted disposal of the relevant Group Member by which it is owned including any funds held with any bank from time to time to satisfy minimum liquidity requirements;

“**Loan**” means the principal amount which has been advanced under this Agreement and which is outstanding for the time being;

“**Major Casualty**” means, in relation to a Ship, any casualty to such Ship in respect of which the claim or the aggregate of the claims against all insurers, before adjustment for any relevant franchise or deductible, exceeds \$500,000 or the equivalent in any other currency;

“**Majority Lenders**” means:

- (a) before the Loan has been made, Lenders whose Commitments total 66.67 per cent. or more of the Total Commitments; and
- (b) after the Loan has been made, Lenders whose Contributions total 66.67 per cent. or more of the Loan;

“**Management Agreement**” means, in respect of each Ship, the management agreement dated 16 November 2007 (as amended and/or otherwise up-dated from time to time) made between the Borrower (on behalf of each Owner) and the Approved Manager in such form and substance acceptable to the Agent acting with the authorisation of the Majority Lenders;

“**Manager’s Undertaking**” means a letter of undertaking in respect of each Ship from the Approved Manager and, in respect of each Ship, the Third Party Manager, each in the Agreed Form (and “**Managers Undertakings**” means all of them collectively);

“**Margin**” means (i) up to and including 31 December 2020, 4.00 per cent. (4%) per annum and (ii) thereafter, 4.25 per cent. (4.25%) per annum ;

“**MARPOL Protocol**” means Annex VI (Regulations for the Prevention of Air Pollution from Ships) to the International Convention for the Prevention of Pollution from Ships 1973 (as amended in 1978 and 1997);

“**Maturity Date**” means the earlier of (i) the date falling 12 months after the Drawdown Date and (ii) 30 June 2021;

“**Maximum Loan Amount**” means the lesser of (i) thirty two million two hundred thousand Dollars (\$32,200,000) and (ii) 60% of the aggregate Fair Market Value of the Ships evidenced by the valuations received by the Borrower under Clause 9.1 (*Documents, fees and no default*);

“**Minimum Liquidity**” means, at any relevant time, the aggregate amounts required under clause 12.4 of this Agreement to be standing to the credit of the Earnings Accounts and/or the Retention Account;

“**Mortgage**” means, in relation to a Ship, the first preferred mortgage on the Ship under the relevant Approved Flag including, if appropriate, any deed of covenant collateral thereto, in the Agreed Form (and “**Mortgages**” means all of them collectively);

“**Negotiation Period**” has the meaning given in Clause 5.10 (*Negotiation of alternative rate of interest*);

“**Net Debt**” means, as at the date of calculation or, as the case may be, for any accounting period, the total debt of the Group less cash (which shall have the meaning given thereto under US GAAP meaning both restricted and freely available cash) as at that date or for that period as shown in the Latest Accounts;

“**Net Worth**” means, at any relevant time, the Total Assets less Total Liabilities;

“**Notifying Lender**” has the meaning given in Clause 23.1 (*Illegality*) or 24.1 (*Increased Costs*) as the context requires;

“**Owner**” means, in respect of each Ship, the Guarantor which is at any relevant time the owner thereof;

“**Payment Currency**” has the meaning given in Clause 21.4 (*Currency indemnity*);

“**Permitted Owners**” means (i) Angeliki Frangou; (ii) each of her 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 company or other Person in which any of the foregoing, individually or in the aggregate, own or control a majority in interest; (iii) Navios Holdings; and (iv) all Affiliates controlled by the Persons named in clauses (i) and (ii) above;

“**Permitted Security Interests**” means:

- (a) Security Interests created by the Finance Documents;
- (b) liens for unpaid master’s and crew’s wages in accordance with usual maritime practice;
- (c) liens for salvage;
- (d) liens arising by operation of law for not more than 2 months’ prepaid hire under any charter in relation to a Ship not prohibited by this Agreement;
- (e) liens for master’s disbursements incurred in the ordinary course of trading and any other lien arising by operation of law or otherwise in the ordinary course of the operation, repair or maintenance of a Ship, provided such liens do not secure amounts more than 60 days overdue (unless the overdue amount is being contested by the relevant Owner in good faith by appropriate steps) and subject, in the case of liens for repair or maintenance, to Clauses 14.13(h) (*Restrictions on chartering, appointments of managers etc.*);

- (f) any Security Interest created in favour of a plaintiff or defendant in any proceedings or arbitration as security for costs and expenses while the relevant Owner is actively prosecuting or defending such proceedings or arbitration in good faith by appropriate steps;
- (g) Security Interests arising by operation of law in respect of taxes which are not overdue for payment or in respect of taxes being contested in good faith by appropriate steps and in respect of which appropriate reserves have been made; and
- (h) any right of pledge and/or set off created pursuant to the general banking conditions (*algemene bankvoorwaarden*) of ABN AMRO Bank NV;

“**Pertinent Document**” means:

- (a) any Finance Document;
- (b) any policy or contract of insurance contemplated by or referred to in Clause 13 (*Insurance*) or any other provision of this Agreement or another Finance Document;
- (c) any other document contemplated by or referred to in any Finance Document; and
- (d) any document which has been or is at any time sent by or to the Agent or the Security Trustee in contemplation of or in connection with any Finance Document or any policy, contract or document falling within paragraphs (b) or (c);

“**Pertinent Jurisdiction**”, in relation to a company, means:

- (a) England and Wales;
- (b) the country under the laws of which the company is incorporated or formed;
- (c) a country in which the company has the centre of its main interests or in which the company’s central management and control is or has recently been exercised;
- (d) a country in which the overall net income of the company is subject to corporation tax, income tax or any similar tax;
- (e) a country in which assets of the company (other than securities issued by, or loans to, related companies) having a substantial value are situated, in which the company maintains a permanent place of business, or in which a Security Interest created by the company must or should be registered in order to ensure its validity or priority; and
- (f) a country the courts of which have jurisdiction to make a winding up, administration or similar order in relation to the company or which would have such jurisdiction if their assistance were requested by the courts of a country referred to in paragraphs (b) or (c);

“**Pertinent Matter**” means:

- (a) any transaction or matter contemplated by, arising out of, or in connection with a Pertinent Document; or
- (b) any statement relating to a Pertinent Document or to a transaction or matter falling within paragraph (a);

and covers any such transaction, matter or statement, whether entered into, arising or made at any time before the signing of this Agreement or on or at any time after that signing;

“**Potential Event of Default**” means an event or circumstance which, with the giving of any notice, the lapse of time, a determination of the Majority Lenders and/or the satisfaction of any other condition, would constitute an Event of Default;

“**Quotation Date**” means, in relation to any Interest Period (or any other period for which an interest rate is to be determined under any provision of a Finance Document), the day on which quotations would ordinarily be given by leading banks in the London Interbank Market for deposits in the currency in relation to which such rate is to be determined for delivery on the first day of that Interest Period or other period;

“**Reference Banks**” means the branch of ABN AMRO Bank N.V. at Gustav Mahlerlaan 10, 1082 PP Amsterdam, The Netherlands and the London branch of ABN AMRO Bank N.V. or such other banks as may be appointed by the Agent in consultation with the Borrower;

“**Relevant Person**” has the meaning given in Clause 19.9 (*Relevant Persons*);

“**Repayment Date**” means a date on which a repayment of the Loan is required to be made under Clause 8.1 (*Repayment of Loan*);

“**Requisition Compensation**” includes all compensation or other moneys payable by reason of any act or event such as is referred to in paragraph (b) of the definition of “**Total Loss**”;

“**Restricted Countries**” means any country or region subject to Sanctions at the relevant time, as notified from time to time to the Borrower by the Agent, which, as of the date of this Agreement, are Cuba, Iran, North Korea, Sudan, Syria, the region of Crimea;

“**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 country or territory that is the target of country-wide Sanctions;
- (c) located, domiciled, resident or incorporated in a Restricted Country; or
- (d) otherwise a target of Sanctions;

“**Retention Account**” means an account in the name of the Borrower with the Account Bank designated “*Navios Maritime Partners LP - Retention Account*”, which is designated by the Agent as such account for the purposes of this Agreement;

“**Sanctions**” means any economic or trade sanctions laws, regulations, embargoes or restrictive measures administered, enacted or enforced by:

- (a) the United States government;
- (b) the United Nations;
- (c) the European Union or any of its Member States including, without limitation, the Netherlands;

- (d) the United Kingdom;
- (e) any country to which any Security Party or any other member of the Group or any of their Affiliates is bound; or
- (f) the respective governmental institutions and agencies of any of the foregoing, including without limitation, the Office of Foreign Assets Control of the US Department of Treasury (“**OFAC**”), the United States Department of State, and Her Majesty’s Treasury (“**HMT**”) (together “**Sanctions Authorities**” and each, “Sanctions Authority”);

“**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 HMT, or any similar list issued or maintained or made public by any of the Sanctions Authorities;

“**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 pages LIBOR01 or LIBOR02 of the Reuters screen (or any replacement 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 Reuters. If such page or service ceases to be available, the Agent may specify another page or service displaying the appropriate rate after consultation with the Borrower;

“**Secured Liabilities**” means all liabilities which the Borrower, the Security Parties or any of them have, at the date of this Agreement or at any later time or times, under or in connection with any Finance Document or any judgment relating to any Finance Document; and for this purpose, there shall be disregarded any total or partial discharge of these liabilities, or variation of their terms, which is effected by, or in connection with, any bankruptcy, liquidation, arrangement or other procedure under the insolvency laws of any country;

“**Security Interest**” means:

- (a) a mortgage, charge (whether fixed or floating) or pledge, any maritime or other lien or any other security interest of any kind;
- (b) the security rights of a plaintiff under an action *in rem*; and
- (c) any arrangement entered into by a person (A) the effect of which is to place another person (B) in a position which is similar, in economic terms, to the position in which B would have been had he held a security interest over an asset of A; but this paragraph (c) does not apply to a right of set off or combination of accounts conferred by the standard terms of business of a bank or financial institution;

“**Security Party**” means the Borrower, the Guarantors, the Shareholder and any other person (except a Creditor Party) who, as a surety or mortgagor, as a party to any subordination or priorities arrangement, or in any similar capacity, executes a document falling within the last paragraph of the definition of “**Finance Documents**” (other than the Third Party Manager);

“**Security Period**” means the period commencing on the date of this Agreement and ending on the date on which the Agent notifies the Borrower, the Security Parties and the Lenders that:

- (a) all amounts which have become due for payment by the Borrower or any Security Party under the Finance Documents have been paid;
- (b) no amount is owing or has accrued (without yet having become due for payment) under any Finance Document;

- (c) neither the Borrower or any Security Party has any future or contingent liability under Clause 20 (*Expenses*), 21 (*Indemnities*) or 22 (*No set-off or tax deduction*) or any other provision of this Agreement or another Finance Document;
- “**Security Trustee**” means ABN AMRO Bank N.V., duly incorporated under the laws of Netherlands, having its registered office at Gustav Mahlerlaan 10, 1082 PP Amsterdam, The Netherlands (or of such other address as may last have been notified to the Borrower) or any successor of it appointed under clause 5 (*Appointment of a new Servicing Bank*) of the Agency and Trust Deed;
- “**Seller**” means Navios Europe (II) Inc., a corporation incorporated in the Marshall Islands and having its registered office at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands, MH96960;
- “**Shareholder**” means, Navios Maritime Operating L.L.C. a company formed in the Marshall Islands and having its registered office at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands, MH96960;
- “**Shares Pledge**” means, in relation to each Guarantor, a deed creating security in respect of the issued share capital of that Guarantor executed or to be executed by the Shareholder in favour of the Security Trustee in the Agreed Form and “**Shares Pledges**” means all of them;
- “**Ship**” means each of Ship A, Ship B, Ship C, Ship D and Ship E and “**Ships**” means all of them;
- “**SMC**” means a safety management certificate issued in respect of a Ship in accordance with Rule 13 of the ISM Code;
- “**SPA**” means the Share Purchase Agreement dated [] 2020 pursuant to which all the issued and outstanding shares in each Guarantor (the “**Shares**”) will be transferred by the Seller as seller of the Shares to the Shareholder as buyer of the Shares;
- “**Subordinated Creditor**” means any member of the Group 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 Trustee in an agreed form.
- “**Subordinated Liabilities**” means all indebtedness owed or expressed to be owed by the Borrower or a Guarantor to a Subordinated Creditor whether under the Subordinated Finance Documents or otherwise.
- “**Subordination Deed**” means a subordination deed entered into or to be entered into by, inter alia, each Subordinated Creditor and the Agent in agreed form;
- “**Subsidiary**” has the meaning given in Clause 1.4 (*Meaning of “Subsidiary”*);
- “**Total Loss**” means, in relation to a Ship:
- (a) actual, constructive, compromised, agreed or arranged total loss of such Ship;
 - (b) requisition for title or other compulsory acquisition including, if that ship is not released therefrom within the Relevant Period, capture, appropriation, forfeiture, seizure, detention, deprivation or confiscation howsoever for any reason (but excluding requisition for use or hire) by or on behalf of any government entity or other competent authority or by pirates, hijackers, terrorists or similar persons;

“**Relevant Period**” means for the purposes of this definition either (i) ninety (90) days or, (ii) if relevant underwriters confirm in writing (in terms satisfactory to the Agent) prior to the end of such ninety (90) day period that such capture, seizure, detention or confiscation will be fully covered (subject to any applicable deductible) by the relevant Owner’s war risks insurance if continuing for a further period exceeding ten (10) calendar months, the shorter of twelve (12) months and such period at the end of which cover is confirmed to attach; and

- (c) any arrest, capture, seizure or detention of such Ship (including any hijacking or theft) unless it is within 90 days redelivered to the full control of the Owner owning such Ship;

“**Total Assets**” means, as at the date of calculation or, as the case may be, for any accounting period, the total assets (based on book values) (which shall have the meaning given thereto under US GAAP) of the Borrower as at that date or for that period as shown in the Latest Accounts.

“**Total Liabilities**” means, as at the date of calculation or, as the case may be, for any accounting period, the total liabilities (which shall have the meaning given thereto under US GAAP) of the Borrower as at that date or for that period as shown in the Latest Accounts;

“**Total Loss Date**” means, in relation to a Ship:

- (a) in the case of an actual loss of such Ship, the date on which it occurred or, if that is unknown, the date when such Ship was last heard of;
- (b) in the case of a constructive, compromised, agreed or arranged total loss of such Ship, 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 Borrower owning such Ship with such Ship’s insurers in which the insurers agree to treat such Ship as a total loss; and
- (c) in the case of any other type of total loss, on the date (or the most likely date) on which it appears to the Agent that the event constituting the total loss occurred;

“**Transfer Certificate**” has the meaning given in Clause 26.2 (*Transfer by a Lender*); and

“**Trust Property**” has the meaning given in clause 3.1 (*Definition of “Trust Property”*) of the Agency and Trust Deed; and

“**US GAAP**” means the generally accepted accounting principles applied from time to time in the United States of America.

Words and expressions defined in Schedule 6 (*Ship and Third Party Manager Details*) when used in this Agreement shall have the meanings given to them in Schedule 6 (*Ship and Third Party Manager Details*) as if the same were set out in full in this clause 1.1 (*Definitions*).

1.2 Construction of certain terms. In this Agreement:

“**administration notice**” means a notice appointing an administrator, a notice of intended appointment and any other notice which is required by law (generally or in the case concerned) to be filed with the court or given to a person prior to, or in connection with the appointment of an administrator;

“**approved**” means, for the purposes of Clause 13 (*Insurance*), approved in writing by the Agent;

“**asset**” includes every kind of property, asset, interest or right, including any present, future or contingent right to any revenues or other payment;

“**company**” includes any partnership, joint venture and unincorporated association;

“**consent**” includes an authorisation, consent, approval, resolution, licence, exemption, filing, registration, notarisation and legalisation;

“**contingent liability**” means a liability which is not certain to arise and/or the amount of which remains unascertained;

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;

“**document**” includes a deed; also a letter or fax;

“**excess risks**” means, in relation to a Ship, the proportion of claims for general average, salvage and salvage charges not recoverable under the hull and machinery policies in respect of the Ship in consequence of its insured value being less than the value at which the Ship is assessed for the purpose of such claims;

“**expense**” means any kind of cost, charge or expense (including all legal costs, out-of-pocket expenses, charges and expenses) and any applicable value added or other tax;

“**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;

“**legal or administrative action**” means any legal proceeding or arbitration and any administrative or regulatory action or investigation;

“**liability**” includes every kind of debt or liability (present or future, certain or contingent), whether incurred as principal or surety or otherwise;

“**months**” shall be construed in accordance with Clause 1.3 (*Meaning of “month”*);

“**obligatory insurances**” means, in relation to a Ship, all insurances effected or which the relevant Owner is obliged to effect in respect of each Ship, under Clause 13 (*Insurance*) or any other provision of this Agreement or another Finance Document;

“**parent company**” has the meaning given in Clause 1.4 (*Meaning of “Subsidiary”*);

“**person**” includes any company; any state, political sub-division of a state and local or municipal authority; and any international organisation;

“**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;

“**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 (01/11/02 or 01/11/03), clause 8 of the Institute Time Clauses (Hulls) (1/11/1995 or 1/10/83) or the Institute Amended Running Down Clause (1/10/71) or any equivalent provision;

“**regulation**” includes any present or future regulation, rule, directive, requirement, request or guideline (whether or not having the force of law) of any government entity, central bank or any self-regulatory or other supra-national authority (including, without limitation any present or future regulation, rule, directive, requirement, request or guideline (whether or not having the force of law) of any government entity, central bank or any self-regulatory or other supra-national authority (including, without limitation, any regulation implementing or complying with (1) 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 (“Basel II”) and/or (2) Basel III and/or (3) Basel IV and/or (4) any other law or regulation which, at any time and from time to time, implements and/or amends and/or supplements and/or re-enacts and/or supersedes, whether in whole or in part, Basel II and/or Basel III and/or Basel IV (including CRD IV and CRR), and whether such implementation, application or compliance is by any government entity, a lender or any company affiliated to it);

“**tax**” includes any present or future tax, duty, impost, levy or charge of any kind which is imposed by any state, any political sub-division of a state or any local or municipal authority (including any such imposed in connection with exchange controls), and any connected penalty, interest or fine; and

“**war risks**” includes the risk of mines and all risks excluded by clause 29 of the International Hull Clauses (1/11/02) or clause 24 of the Institute Time Clauses (Hulls) (1/11/1995) or clause 23 of the Institute Time Clause (Hulls) (1/10/83).

1.3 Meaning of “month”. A period of one or more “**months**” ends on the day in the relevant calendar month numerically corresponding to the day of the calendar month on which the period started (“**the numerically corresponding day**”), but:

- (a) on the Business Day following the numerically corresponding day if the numerically corresponding day is not a Business Day or, if there is no later Business Day in the same calendar month, on the Business Day preceding the numerically corresponding day; or
- (b) on the last Business Day in the relevant calendar month, if the period started on the last Business Day in a calendar month or if the last calendar month of the period has no numerically corresponding day;

and “**month**” and “**monthly**” shall be construed accordingly.

1.4 Meaning of “Subsidiary”. “**Subsidiary**” of a person means any company or entity directly or indirectly controlled by such person, and for this purpose “control” means the ownership of more than fifty per cent (50%) of the voting share capital (or equivalent rights of ownership) of such company or entity.

1.5 General Interpretation. In this Agreement:

- (a) references to, or to a provision of, a Finance Document or any other document are references to it as amended or supplemented, whether before the date of this Agreement or otherwise;
- (b) references to, or to a provision of, any law include any amendment, extension, re-enactment or replacement, whether made before the date of this Agreement or otherwise;
- (c) words denoting the singular number shall include the plural and vice versa; and

- (d) Clauses 1.1 to 1.5 apply unless the contrary intention appears.

1.6 Headings.

In interpreting a Finance Document or any provision of a Finance Document, all clause, sub-clause and other headings in that and any other Finance Document shall be entirely disregarded.

1.7 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.

In this clause:

“**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;

“**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;

“**EEA Member Country**” means any member state of the European Union, Iceland, Liechtenstein and Norway.

“**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.

“**Party**” means a party to this Agreement.

“**Resolution Authority**” means any body which has authority to exercise any Write-down and Conversion Powers.

“**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 I 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 institutions or their affiliates (otherwise than through liquidation, administration or other insolvency proceedings); and

“**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;
 - (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.

2 FACILITY

2.1 Amount of facility. Subject to the other provisions of this Agreement, the Lenders shall make available to the Borrower a loan facility in an aggregate amount not exceeding the Maximum Loan Amount for the purpose of enabling the Borrower to on-lend the same to the Shareholder to finance the acquisition of all the shares in each Guarantor.

2.2 Lenders’ participations in Loan. Subject to the other provisions of this Agreement, each Lender shall participate in the Loan in the proportion which, as at the Drawdown Date, its Commitment bears to the Total Commitments.

2.3 Purpose of Loan. The Borrower undertakes with each Creditor Party to use the Loan only for the purpose stated in the preamble to this Agreement.

3 POSITION OF THE LENDERS

3.1 Interests several. The rights of the Lenders under this Agreement are several.

3.2 Individual right of action. Each Lender shall be entitled to sue for any amount which has become due and payable by the Borrower to it under this Agreement without joining the Agent, the Security Trustee or any other Lender as additional parties in the proceedings.

3.3 Proceedings requiring Majority Lender consent. Except as provided in Clause 3.2 (*Individual right of action*), no Lender may commence proceedings against the Borrower or any Security Party in connection with a Finance Document without the prior consent of the Majority Lenders.

3.4 Obligations several. The obligations of the Lenders under this Agreement are several; and a failure of a Lender to perform its obligations under this Agreement shall not result in:

- (a) the obligations of the other Lenders being increased; nor
- (b) the Borrower, any Security Party, any other Lender being discharged (in whole or in part) from its obligations under any Finance Document;

and in no circumstances shall a Lender have any responsibility for a failure of another Lender to perform its obligations under this Agreement.

4 DRAWDOWN

4.1 Request for Loan. Subject to the following conditions, the Borrower may request the Loan to be made by ensuring that the Agent receives a completed Drawdown Notice not later than 11.00 a.m. (Rotterdam time) 3 Business Days prior to the intended Drawdown Date.

4.2 Availability. The conditions referred to in Clause 4.1 (*Request for Loan*) are that:

- (a) the Drawdown Date has to be a Business Day during the Availability Period;
- (b) the amount of the Loan shall not exceed the amount set out in Clause 2.1 (*Amount of facility*); and
- (c) all applicable conditions precedent set out in Clause 9.1 (*Documents, fees and no default*) shall have been fulfilled.

4.3 Notification to Lenders of receipt of the Drawdown Notice. The Agent shall promptly notify the Lenders that it has received the Drawdown Notice and shall inform each Lender of:

- (a) the amount of the Loan and the Drawdown Date;
- (b) the amount of that Lender's participation in the Loan; and
- (c) the duration of the Interest Period.

4.4 Drawdown Notice irrevocable. The Drawdown Notice must be signed by a director or an authorised signatory of the Borrower; and once served, the Drawdown Notice cannot be revoked without the prior consent of the Agent, acting on the authority of the Majority Lenders.

- 4.5 Lenders to make available Contributions.** Subject to the provisions of this Agreement, each Lender shall, on and with value on the Drawdown Date, make available to the Agent the amount due from that Lender under Clause 2.2 (*Lender's participation in Loan*).
- 4.6 Disbursement of Loan.** Subject to the provisions of this Agreement, the Agent shall on the Drawdown Date pay to the Borrower for on-payment to the Shareholder the amounts which the Agent receives from the Lenders under Clause 4.5 above; and that payment to the Borrower shall be made:
- (a) to the account which the Borrower specifies in the Drawdown Notice; and
 - (b) in the like funds as the Agent received the payments from the Lenders.
- 4.7 Disbursement of Loan to third party.** A payment by the Agent under Clause 4.6 (*Disbursement of Loan*) above shall constitute the making of the Loan and the Borrower shall thereupon become indebted, as principal and direct Security Party, to each Lender in an amount equal to that Lender's Contribution.
- 4.8 Use of proceeds**
- (a) the Creditor Parties shall have no responsibility for the Borrower's use of the proceeds of the Loan.
 - (b) the Borrower shall not, and shall procure that no Security Party or other Group Member or any affiliate of any of them shall, permit or authorise any other person to, 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 transactions contemplated by this Agreement 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 the Borrower, any other Security Party or a Creditor Party being in breach of any Sanctions or becoming a Restricted Person.
- 4.9 Cancellation.** If any part of the Commitment has not been drawn down under this Agreement at the end of the Availability Period, such undrawn portion shall, on the day following the last day of the applicable Availability Period, be permanently and irrevocably cancelled; it is hereby agreed that any undrawn portion of any part of the Total Commitments at the end of the Availability Period shall, on the day following the last day of the Availability Period, be permanently and irrevocably cancelled.
- 5 INTEREST**
- 5.1 Payment of normal interest.** Subject to the provisions of this Agreement, interest on the Loan shall be paid by the Borrower on the last day of the Interest Period.
- 5.2 Normal rate of interest.** Subject to the provisions of this Agreement, the rate of interest on the Loan in respect of an Interest Period shall be the aggregate of (a) the Margin and (b) LIBOR for that Interest Period.
- 5.3 Payment of accrued interest.** In the case of an Interest Period of longer than 3 months, accrued interest shall be paid every 3 months during that Interest Period and on the last day of that Interest Period.
- 5.4 Notification of Interest Periods and rates of normal interest.** The Agent shall notify the Borrower and each Lender of:
- (a) each rate of interest; and
 - (b) the duration of each Interest Period;

as soon as reasonably practicable after each is determined.

- 5.5 Obligation of Reference Banks to quote.** A Reference Bank which is a Lender shall use all reasonable efforts to supply any quotation required of it for the purposes of fixing a rate of interest under this Agreement.
- 5.6 Absence of quotations by Reference Banks.** If any Reference Bank fails to supply a quotation when it is required to do so, the Agent shall determine the relevant LIBOR on the basis of the quotations supplied by the other Reference Bank or Banks; but if 2 or more of the Reference Banks fail to provide a quotation, the relevant rate of interest shall be determined by the Agent.
- 5.7 Market disruption.** The following provisions of this Clause 5 (*Interest*) apply if:
- (a) no Screen Rate is available for an Interest Period and 2 or more of the Reference Banks do not before 1.00 p.m. (London time) on the Quotation Date provide quotations to the Agent in order to fix LIBOR; or
 - (b) at least 1 Business Day before the start of an Interest Period, Lenders having Contributions together amounting to more than 50 per cent. of the Loan (or, if no part of the Loan has been drawn, Lenders having Commitments amounting to more than 50 per cent. of the aggregate of the Total Commitments) notify the Agent that by reason of changes affecting the London Interbank Market, adequate and fair means do not exist for determining the rate of interest on the Loan (or part of it) for that Interest Period at or about 1.00 p.m. (London time) on the Quotation Date for the Interest Period; or
 - (c) at least 1 Business Day before the start of an Interest Period, the Agent is notified by a Lender (the “**Affected Lender**”) that for any reason it is unable to obtain Dollars in the London Interbank Market in order to fund its Contribution, as the case may be (or any part of it) during that Interest Period.
- 5.8 Notification of market disruption.** The Agent shall promptly notify the Borrower and each of the Lenders stating the circumstances falling within Clause 5.7 (*Market Disruption*) which have caused its notice to be given.
- 5.9 Suspension of drawdown.** If the Agent’s notice under Clause 5.8 (*Notification of market disruption*) above is served before the Loan is to be made:
- (a) in a case falling within Clauses 5.7(a) or (b) (*Market disruption*), the Lenders’ obligations to make the Loan;
 - (b) in a case falling within Clause 5.7(c) (*Market disruption*), the Affected Lender’s obligation to participate in the Loan,
- (i) in the case of Clause 5.9(a), shall be made on the basis of an alternative interest rate and interest period which the Lenders or (as the case may be) the Affected Lender may select as cost of funding of the Lenders or (as the case may be) the Affected Lender, in Dollars or in any available currency of their or its Contribution plus the Margin and Clauses 5.10 (*Negotiation of alternative rate of interest*), 5.11 (*Application of agreed alternative rate of interest*), 5.12 (*Alternative rate of interest in absence of agreement*) and 5.13 (*Notice of prepayment*) shall apply; and (ii) in the case of Clause 5.9(b), shall be suspended while the circumstances referred to in the Agent’s notice continue and thereafter Clauses 5.10 (*Negotiation of alternative rate of interest*), 5.11 (*Application of agreed alternative rate of interest*), 5.12 (*Alternative rate of interest in absence of agreement*) and 5.13 (*Notice of prepayment*) shall apply.

- 5.10 Negotiation of alternative rate of interest.** If the Agent serves a notice under Clause 5.8, the Borrower, the Agent and the Lenders or (as the case may be) the Affected Lender shall use reasonable endeavours to agree, within the 30 days after the date on which the Agent serves its notice under Clause 5.8 (*Notification of market disruption*) (the “**Negotiation Period**”), an alternative interest rate or (as the case may be) an alternative basis for the Lenders or (as the case may be) the Affected Lender to fund or continue to fund their or its Contribution during the Interest Period concerned.
- 5.11 Application of agreed alternative rate of interest.** Any alternative interest rate or an alternative basis which is agreed during the Negotiation Period shall take effect in accordance with the terms agreed.
- 5.12 Alternative rate of interest in absence of agreement.** If an alternative interest rate or alternative basis is not agreed within the Negotiation Period, and the relevant circumstances are continuing at the end of the Negotiation Period, then the Agent shall, with the agreement of each Lender or (as the case may be) the Affected Lender, set an interest period and interest rate representing the cost of funding of the Lenders or (as the case may be) the Affected Lender in Dollars or in any available currency of their or its Contribution plus the Margin; and the procedure provided for by this Clause 5.12 shall be repeated if the relevant circumstances are continuing at the end of the interest period so set by the Agent.
- 5.13 Notice of prepayment.** If the Borrower does not agree with an interest rate set by the Agent under Clause 5.12 (*Alternative rate of interest in absence of agreement*), the Borrower may give the Agent not less than 15 Business Days’ notice of their intention to prepay at the end of the interest period set by the Agent (in the case where a notice has been served under Clause 5.8 (*Notification of market disruption*) after the Loan has been made available) or the Borrower may notify the Agent of their intention not to proceed with the relevant drawdown (in the case where a notice has been served under Clause 5.8 (*Notification of market disruption*) prior to making the Loan).
- 5.14 Prepayment; termination of Commitments.** A notice under Clause 5.13 (*Notice of prepayment*) above shall be irrevocable; the Agent shall promptly notify the Lenders or (as the case may require) the Affected Lender of the Borrower’s notice of intended prepayment; and:
- (a) on the date on which the Agent serves that notice, the Total Commitments or (as the case may require) the Commitment of the Affected Lender so far as they relate to the Loan shall be cancelled; and
 - (b) on the last Business Day of the interest period set by the Agent, the Borrower shall prepay (without premium or penalty) the Loan or, as the case may be, the Affected Lender’s Contribution, together with accrued interest thereon at the applicable rate plus the Margin.
- 5.15 Application of prepayment.** The provisions of Clause 8 (*Repayment and prepayment*) shall apply in relation to the prepayment.
- 5.16 Negotiation of Replacement Benchmark**
- (a) If a Screen Rate Replacement Event occurs, the Agent and the Borrower shall enter into negotiations for a period of 30 days with a view to agreeing a Replacement Benchmark and any other amendment and/or waiver which relates to any of the associated matters referred to in Clause 7.7(b)(ii). Such negotiations shall take into account the then current market standards and be conducted with a view to reducing or eliminating, to the extent reasonably practicable, any transfer of economic value from one Party to another.

- (b) Until such time as a Replacement Benchmark and such associated amendments and/or waivers have been agreed and without prejudice to the obligation of the Parties pursuant to Clause 5.16(a) above, for any Interest Period starting after the Benchmark Discontinuation Date, LIBOR shall be replaced by the weighted average of the rates notified to the Agent by each Lender two (2) Business Days prior to the first day of that Interest Period to be that which expresses as a percentage rate per annum the cost the relevant Lender would have of funding an amount equal to its participation in the Loan during the relevant Interest Period from whatever source it may reasonably select, and if such amount is less than zero then it shall be deemed to be zero.
- (c) For the avoidance of doubt, Clause 5.7 (*Market Disruption*) shall not apply following the Benchmark Discontinuation Date.
- (d) If Clause 5.16(a) above applies, the Borrower shall, within three (3) Business Days of demand, reimburse the Agent and each Lender for the amount of all costs and expenses (including legal fees) reasonably incurred by any of them in responding to, evaluating, negotiating or complying with this requirement. This shall include, for the avoidance of doubt, any costs and expenses incurred in relation to ensuring that all Transaction Security remains valid and fully perfected further to any amendment or waiver

6 INTEREST PERIODS

6.1 Interest Periods. The first Interest Period shall commence on the Drawdown Date and shall terminate simultaneously with the then current Interest Period and thereafter each subsequent Interest Period shall commence on the expiry of the preceding Interest Period and each Interest Period shall be:

- (a) 3 months; or
- (b) such other period as the Agent may, with the authorisation of all the Lenders, agree with the Borrower;

provided that in respect of an amount due to be repaid under Clause 8.1 (*Repayment of Loan*) on a particular Repayment Date, an Interest Period relating to the Loan shall end on that Repayment Date.

6.2 Non-availability of matching deposits for Interest Period selected. If, after the Borrower has selected and the Lenders have agreed an Interest Period longer than 3 months, any Lender notifies the Agent by 11.00 a.m. (Rotterdam time) on the third Business Day before the commencement of that Interest Period that it is not satisfied that deposits in Dollars for a period equal to that Interest Period will be available to it in the London Interbank Market when that Interest Period commences, that Interest Period shall be of 3 months.

7 DEFAULT INTEREST

7.1 Payment of default interest on overdue amounts. The Borrower shall pay interest in accordance with the following provisions of this Clause 7 on any amount payable by the Borrower under any Finance Document which the Agent, the Security Trustee or the other designated payee does not receive on or before the relevant date, that is:

- (a) the date on which the Finance Documents provide that such amount is due for payment; or
- (b) if a Finance Document provides that such amount is payable on demand, the date on which the demand is served; or
- (c) if such amount has become immediately due and payable under Clause 19.4 (*Acceleration of liabilities*), the date on which it became immediately due and payable.

- 7.2 Default rate of interest.** Interest shall accrue on an overdue amount from (and including) the relevant date until the date of actual payment (as well after as before judgment) at the rate per annum determined by the Agent to be 2 per cent. above:
- (a) in the case of an overdue amount of principal, the higher of the rates set out at Clauses 7.3(a) and (b); or
 - (b) in the case of any other overdue amount, the rate set out at Clause 7.3(b) (*Calculation of default rate of interest*).
- 7.3 Calculation of default rate of interest.** The rates referred to in Clause 7.2 (*Default rate of interest*) above are:
- (a) the rate applicable to the overdue principal amount immediately prior to the relevant date (but only for any unexpired part of any then current Interest Period applicable to it);
 - (b) the Margin plus, in respect of successive periods of any duration (including at call) up to 3 months which the Agent may select from time to time:
 - (i) LIBOR; or
 - (ii) if the Agent determines that Dollar deposits for any such period are not being made available to any Reference Bank by leading banks in the London Interbank Market in the ordinary course of business, a rate from time to time determined by the Agent by reference to the cost of funds to the relevant Lenders from such other sources as the Agent (after consultation with the Reference Bank) may from time to time determine.
- 7.4 Notification of interest periods and default rates.** The Agent shall promptly notify the Lenders and the Borrower of each interest rate determined by the Agent under Clause 7.3 (*Calculation of default rate of interest*) above and of each period selected by the Agent for the purposes of paragraph (b) of that Clause; but this shall not be taken to imply that the Borrower is liable to pay such interest only with effect from the date of the Agent's notification.
- 7.5 Payment of accrued default interest.** Subject to the other provisions of this Agreement, any interest due under this Clause shall be paid on the last day of the period by reference to which it was determined; and the payment shall be made to the Agent for the account of the Creditor Party to which the overdue amount is due.
- 7.6 Compounding of default interest.** Any such interest which is not paid at the end of the period by reference to which it was determined shall thereupon be compounded.
- 7.7 Replacement of Screen Rate.**
- (a) An amendment or waiver which relates to the rights or obligations of the Agent, the Security Agent or a Reference Bank (each in their capacity as such) may not be effected without the consent of the Agent, the Security Agent or that Reference Bank.
 - (b) Subject to Clause 7.7(a) above, if a Screen Rate Replacement Event has occurred, any amendment or waiver which relates to:
 - (i) providing for the use of a Replacement Benchmark in place of the Screen Rate; and
 - (ii) (aa) aligning any provision of any Finance Document to the use of that Replacement Benchmark;

(bb) 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);

(cc) implementing market conventions applicable to that Replacement Benchmark;

(dd) providing for appropriate fallback (and market disruption) provisions for that Replacement Benchmark; or

(ee) 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.

In this Clause 7.7 (*Replacement of Screen Rate*):

“**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.

“**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 a Screen Rate; or
- (c) in the opinion of the Majority Lenders and the Borrower, an appropriate successor to a Screen Rate.

“**Screen Rate Replacement Event**” means:

- (a) the methodology, formula or other means of determining the Screen Rate has, in the opinion of the Majority Lenders and the Borrower materially changed;
- (b) (i)

- (A) the administrator of the 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 the Screen Rate is insolvent,
- provided that, in each case, at that time, there is no successor administrator to continue to provide the Screen Rate;
- (b) the administrator of the Screen Rate publicly announces that it has ceased or will cease to provide the Screen Rate permanently or indefinitely and, at that time, there is no successor administrator to continue to provide the Screen Rate;
 - (c) the supervisor of the administrator of the Screen Rate publicly announces that the Screen Rate has been or will be permanently or indefinitely discontinued; or
 - (d) the administrator of the Screen Rate or its supervisor announces that the Screen Rate may no longer be used; or
- (c) the administrator of the Screen Rate determines that the 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 events leading to such determination are not (in the opinion of the Majority Lenders and the Borrower temporary; or
 - (ii) the Screen Rate is calculated in accordance with any such policy or arrangement for a period no less than 10 Business Days; or
- (a) in the opinion of the Majority Lenders and the Borrower, the Screen Rate is otherwise no longer appropriate for the purposes of calculating interest under this Agreement.

8 REPAYMENT AND PREPAYMENT

8.1 Repayment of Loan. The Borrower shall repay the Loan by:

- (a) four (4) consecutive three-monthly instalments, each in an amount equal to \$1,300,000; and
- (b) a balloon instalment in an amount equal to \$27,000,000.

8.2 Repayment Dates. The first instalment shall be repaid three (3) months following the Drawdown Date and the fourth instalment and the balloon instalment shall be repaid on the Maturity Date.

- 8.3 Final Repayment Date.** On the final Repayment Date, the Borrower shall additionally pay to the Agent for the account of the Creditor Parties all other sums then accrued or owing under any Finance Document.
- 8.4 Voluntary prepayment.** Subject to the following conditions, the Borrower may prepay the whole or any part of the Loan on the last day of an Interest Period.
- 8.5 Conditions for voluntary prepayment.** The conditions referred to in Clause 8.4 are that:
- (a) a partial prepayment shall be in an amount of \$500,000 or a higher integral multiple of \$500,000;
 - (b) the Agent has received from the Borrower at least 10 Business Days' prior written notice specifying the date on which the prepayment is to be made;
 - (c) the Borrower has provided evidence satisfactory to the Agent that any consent required by the Borrower or any Security Party in connection with the prepayment has been obtained and remains in force, and that any requirement relevant to this Agreement which affects the Borrower or any Security Party has been complied with; and
 - (d) the amount of the instalment by which the Loan shall be prepaid, including the balloon instalment, under Clause 8.1 (*Repayment of Loan*) on any such scheduled repayment dates (as reduced by any earlier operation of this Clause 8.5, Clause 8.13 (*Conditions of cancellation of Commitments*) and Clause 8.16 (*Adjustments of scheduled repayments*)) shall be reduced in inverse order of maturity, in order of maturity or pro rata at the Borrower's option.
- 8.6 Effect of notice of prepayment.** A prepayment notice may not be withdrawn or amended without the consent of the Agent, given with the authorisation of the Majority Lenders, and the amount specified in the prepayment notice shall become due and payable by the Borrower on the date for prepayment specified in the prepayment notice.
- 8.7 Notification of notice of prepayment.** The Agent shall notify the Lenders promptly upon receiving a prepayment notice, and shall provide any Lender which so requests with a copy of any document delivered by the Borrower under Clause 8.5(c) (*Conditions for voluntary prepayment*).
- 8.8 Mandatory prepayment.** The Borrower shall be obliged to prepay the portion of the Loan specified in Clause 8.9 (*Amounts of mandatory prepayments*):
- (a) if a Ship is sold or refinanced by any bank or financial institution, on or before the date on which the sale is completed by delivery of such Ship to the relevant buyer or the funds under the refinancing arrangement are drawn down respectively; or
 - (b) if, after delivery (if applicable), a Ship becomes a Total Loss, on the earlier of the date falling 120 days (or such longer period as the Agent, acting on the instructions of the Majority Lenders, may agree (such consent not to be unreasonably withheld)) after the Total Loss Date and the date of receipt by the Security Trustee of the proceeds of insurance relating to such Total Loss.
- 8.9 Amounts of mandatory prepayments.** The amount of the Loan to be prepaid in the circumstances contemplated in Clause 8.8 (*Mandatory prepayment*) above is:
- (a) if the Loan at the time of such sale or Total Loss is more than 45% of the aggregate of the Fair Market Values of the Ships subject to a Mortgage at the time of such sale or Total Loss, the amount of the sale or Total Loss proceeds payable in respect of such sale or Total Loss so that post prepayment the Loan is less than 45% of the aggregate of the Fair Market Values of the Ships subject to a Mortgage;

- (b) otherwise, an amount being the greater of:
- (i) an amount so that the ratio of (i) the aggregate of the Fair Market Value (determined as provided in Clause 15.3 (*Valuation of a Ship*)) of the Ships plus the net realisable value of any additional security previously provided under Clause 15 (*Security cover*) to
 - (ii) the Loan is the same after such prepayment is made as it was before such prepayment is made; and
 - (ii) an amount so that if the ratio set out in Clause 15.1 (*Minimum required security cover*) were applied immediately following the making of such prepayment, the Borrower would not be obliged to provide additional security or prepay part of the Loan under that Clause.
- 8.10 Mandatory prepayment – Loan.** The Borrower shall be obliged to prepay the whole Loan, and any undrawn part of the Total Commitment shall be cancelled upon:
- (a) the circumstances referred to in Clause 23 (*Illegality etc*) arising, and in accordance with that Clause; or
 - (b) there occurs any Change of Control Event.
- 8.11 Amounts payable on prepayment.** A prepayment shall be made together with accrued interest (and any other amount payable under Clause 21 (*Indemnities*) or otherwise) in respect of the amount prepaid and, if the prepayment is not made on the last day of an Interest Period applicable thereto, together with any sums payable under Clause 21.1(c) (*Indemnities*) but without premium or penalty.
- 8.12 Voluntary cancellation of Commitments.** Subject to the following conditions, the Borrower may cancel the whole or any part of the Total Commitment.
- 8.13 Conditions for cancellation of Commitments.** The conditions referred to in Clause 8.12 (*Voluntary cancellation of Commitments*) above are that:
- (a) a partial cancellation shall be \$500,000 or a higher integral multiple of \$500,000;
 - (b) the Agent has received from the Borrower at least 10 Business Days' prior written notice specifying the amount of the Total Commitments to be cancelled and the date on which the cancellation is to take effect; and
 - (c) the amount of the instalments by which the Loan shall be repaid, including the balloon instalment, under Clause 8.1 (*Repayment of Loan*) on any such scheduled repayment dates (as reduced by any earlier operation of this Clause 8.13, Clause 8.5 (*Conditions for voluntary prepayment*) and Clause 8.16 (*Adjustments of scheduled repayments*)) shall be reduced pro rata.
- 8.14 Effect of notice of cancellation.** The service of a cancellation notice given under Clause 8.13(b) (*Conditions for cancellation of Commitments*) shall cause the amount of the Total Commitments specified in the notice to be permanently cancelled, following which the Commitment of each Lender shall be reduced pro rata.
- 8.15 No re-borrowing.** No amount prepaid or cancelled under Clauses 8.4 (*Voluntary prepayment*), 8.8 (*Mandatory prepayment*) and 8.12 (*Voluntary cancellation of Commitments*) may be re-borrowed.

8.16 Adjustment of scheduled repayments. If the Total Commitment has been partially reduced or cancelled under this Agreement and/or any part of the Loan is prepaid (other than under Clause 8.1 (*Repayment of Loan*), Clause 8.4 (*Voluntary prepayment*) and Clause 8.12 (*Voluntary cancellation of Commitments*)) before any scheduled repayment date and/or the aggregate amount advanced to the Borrower is less than the Maximum Loan Amount, the amount of the instalment by which the Loan shall be repaid, including the balloon instalment, under Clause 8.1 (*Repayment of Loan*) on any such scheduled repayment dates (as reduced by any earlier operation of this Clause 8.16) shall be reduced pro rata unless the Agent agrees otherwise in writing.

9 CONDITIONS PRECEDENT

9.1 Documents, fees and no default. Each Lender's obligation to contribute to the Loan is subject to the following conditions precedent:

- (a) that on or before the date of execution of this Agreement, the Agent receives the documents described in Part A of Schedule 3 in form and substance satisfactory to the Agent and its lawyers;
- (b) that, on or before the Drawdown Date in respect of the Loan to be made available hereunder, but prior to the making of the Loan, the Agent receives the documents described in Part B of Schedule 3 in form and substance satisfactory to it and its lawyers;
- (c) that, on or before the Drawdown Date, the Agent receives any fees and expenses that are due and payable under Clause 20 (*Expenses*);
- (d) that both at the date of the Drawdown Notice and the Drawdown Date:
 - (i) no Event of Default or Potential Event of Default has occurred and is continuing or would result from the borrowing of the Loan;

the representations and warranties in Clause 10 (*Representations and Warranties*) and those of the Borrower or any Security Party which are set out in the other Finance Documents would be true and not misleading if repeated on each of those dates with reference to the circumstances then existing; and

none of the circumstances contemplated by Clause 5.7 (*Market disruption*) has occurred and is continuing;

- (e) that, if the ratio set out in Clause 15.1 (*Minimum required security cover*) were applied immediately following the making of the Loan, the Borrower would not be obliged to provide additional security or prepay part of the Loan under that Clause; and
- (f) that the Agent has received, and found to be acceptable to it, any further opinions, consents, agreements and documents in connection with the Finance Documents which the Agent may, with the authorisation of the Majority Lenders, request by notice to the Borrower prior to the Drawdown Date.

9.2 Waiver of conditions precedent. If the Majority Lenders, at their discretion, permit the Loan to be borrowed before certain of the conditions referred to in Clause 9.1 (*Documents, fees and no default*) are satisfied, the Borrower undertakes to ensure that such conditions are satisfied within such period and on such terms as the Agent may specify in writing.

9.3 Conditions Subsequent. The Borrower undertakes to deliver or to cause to be delivered to the Agent on, or as soon as practicable after, the Drawdown Date the additional documents and other evidence listed in Part C (*Conditions Subsequent*) of Schedule 3.

10 REPRESENTATIONS AND WARRANTIES

10.1 General. The Borrower represents and warrants to each Creditor Party as follows.

10.2 Status.

- (a) The Borrower is duly formed and validly existing under the laws of the Republic of Marshall Islands as a limited partnership; and
- (b) each Guarantor is duly incorporated and validly existing under the laws of the Republic of the Marshall Islands.

10.3 Share capital and ownership. The legal title and ownership of all the issued shares in each Guarantor is held by the Shareholder and the ultimate beneficial ownership of all the issued shares in each Guarantor is held by the Borrower, free of any Security Interest or other claim other than any Permitted Security Interests.

10.4 Corporate power. The Borrower and each Security Party has the corporate capacity, and has taken all corporate action and obtained all consents necessary for it:

- (a) to execute the Finance Documents to which the Borrower and/or the relevant Security Party is a party; and
- (b) in the case of the Borrower, to make all the payments contemplated by, and to comply with, the Finance Documents to which it is a party.

10.5 Consents in force. All the consents referred to in Clause 10.4 (*Corporate power*) above remain in force and nothing has occurred which makes any of them liable to revocation.

10.6 Legal validity; effective Security Interests. The Finance Documents to which the Borrower or a Security Party is a party, do now or, as the case may be, will, upon execution and delivery (and, where applicable, registration as provided for in the Finance Documents):

- (a) constitute that Borrower's or that Security Party's legal, valid and binding obligations enforceable against that Borrower or that Security Party in accordance with their respective terms; and
- (b) create legal, valid and binding Security Interests enforceable in accordance with their respective terms over all the assets to which they, by their terms, relate;

subject to any relevant insolvency laws affecting creditors' rights generally.

10.7 No third party Security Interests. Without limiting the generality of Clause 10.6 (*Legal validity; effective Security Interests*), at the time of the execution and delivery of each Finance Document:

- (a) the Borrower or the relevant Security Party which is party to that Finance Document will have the right to create all the Security Interests which that Finance Document purports to create; and
- (b) no third party will have any Security Interest (except for Permitted Security Interests) or any other interest, right or claim over, in or in relation to any asset to which any such Security Interest, by its terms, relates.

10.8 No conflicts. The execution by the Borrower and each Security Party of each Finance Document to which it is a party and (in the case of the Borrower, the Approved Manager and the Third Party Manager) the Management Agreement, and the borrowing by the Borrower of the Loan and each Security Party's compliance with each Finance Document to which it is a party will not involve or lead to a contravention of:

- (a) any law or regulation; or
 - (b) the constitutional documents of the Borrower or any Security Party; or
 - (c) any contractual or other obligation or restriction which is binding on the Borrower or any of the assets of the Borrower and the Security Parties.
- 10.9 No withholding taxes.** All payments which the Borrower or any Security Party is liable to make under the Finance Documents to which it is a party may be made without deduction or withholding for or on account of any tax payable under any law of any Pertinent Jurisdiction.
- 10.10 No default.** No Event of Default or Potential Event of Default has occurred and is continuing.
- 10.11 Information.** All information which has been provided in writing by or on behalf of the Borrower or any Security Party to any Creditor Party in connection with any Finance Document satisfied the requirements of Clause 11.5 (*Information provided to be accurate*); all audited and unaudited accounts which have been so provided satisfied the requirements of Clause 11.7 (*Form of financial statements*); and there has been no material adverse change in the financial position or state of affairs of the Borrower or any Security Party from that disclosed in the latest of those accounts.
- 10.12 No litigation.** No legal or administrative action involving the Borrower or any Security Party (including action relating to any alleged or actual breach of the ISM Code, the ISPS Code or the MARPOL Protocol) has been commenced or taken or, to the Borrower's knowledge, is likely to be commenced or taken which, in either case, would be likely to have a material adverse effect on that Borrower's or that Security Party's financial position or profitability.
- 10.13 Validity and completeness of documents.** The Management Agreement constitutes valid, binding and enforceable obligations of the relevant Owner, the Borrower, the Approved Manager and the Third Party Manager in accordance with its terms and:
- (a) the copy of the Management Agreement and the SPA delivered to the Agent before the date of this Agreement is a true and complete copy; and
 - (b) no amendments or additions to the Management Agreement or the SPA have been agreed nor has the relevant Owner, the Borrower, the Approved Manager or the Third Party Manager waived any of their respective rights under the Management Agreement.
- 10.14 Compliance with certain undertakings.** At the date of this Agreement, the Borrower and each of the Security Parties are in compliance with Clauses 11.2 (*Title; negative pledge*), 11.4 (*No other liabilities or obligations to be incurred*), 11.5 (*Information provided to be accurate*), 11.9 (*Consents*), 11.13 (*Principal place of business*), 11.14 (*Confirmation of no default*) and 11.15 (*Notification of Default*).
- 10.15 Taxes paid.** The Borrower and each Security Party have paid all taxes applicable to, or imposed on or in relation to that Borrower, that Security Party, its business or the Ships.
- 10.16 Compliance.** All requirements of the ISM Code, the ISPS Code and the MARPOL Protocol as they relate to the Borrower, the Approved Manager, the Third Party Manager and each other Security Party and the Ships have been complied with.

- 10.17 No money laundering.** Without prejudice to the generality of Clause 2.3 (*Purpose of Loan*), in relation to the borrowing by the Borrower of the Loan, the performance and 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 the Borrower is a party, the Borrower confirms (i) that it is acting for its own account, (ii) that it will use the proceeds of the Loan for its own benefit, under its full responsibility and exclusively for the purposes specified in this Agreement and (iii) that 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 Council of the European Communities).
- 10.18 No immunity.** No Borrower or Security Party benefits from any immunity from suit.
- 10.19 Disclosure of material facts.** The Borrower is not aware of any material facts or circumstances which have not already been disclosed to the Agent and which might, if disclosed to the Agent, adversely affect the decision of the Lenders to make the Loan available to the Borrower.
- 10.20 Pari Passu.** The obligations of the Borrower under the Finance Documents to which it is a party rank at least pari passu with all other unsecured indebtedness of the Borrower, other than indebtedness mandatorily preferred by law.
- 10.21 Governing law and enforcement.** The choice of law as the governing law of any Finance Document will be recognised and enforced in the jurisdiction of incorporation of the Borrower and each relevant Security Party, and any judgment obtained in England in relation to any such Finance Document will be recognised and enforced in the jurisdiction of incorporation of the Borrower and each relevant Security Party.
- 10.22 No filing or stamp tax.** Under the laws of all Pertinent Jurisdiction relating to the Borrower and each relevant Security Party it is not necessary that the Finance Documents be filed, recorded or enrolled with any court or other authority in that jurisdiction (save for the Mortgages which are to be recorded in accordance with the requirements of the relevant Approved Flag State registry) or that any stamp, registration or similar tax be paid on or in relation the Finance Documents or the transactions contemplated by the Finance Documents.
- 10.23 Sanctions.** No Security Party nor other Group Member nor any director, officer, agent, employee of any Security Party or other Group Member or any person acting on behalf of any Security Party or other Group Member, is a Restricted Person nor acts directly or indirectly on behalf of a Restricted Person.
- 10.24 Repetition.** Each representation and warranty in this Clause 10 (*Representations and Warranties*) (other than this Clause 10.24) is deemed to be repeated by the Borrower by reference to the facts and circumstances then existing on each date during the Security Period.

11 GENERAL UNDERTAKINGS

- 11.1 General.** The Borrower undertakes with each Creditor Party to comply and shall procure that each Guarantor shall also comply (as applicable), with the following provisions of this Clause 11 at all times during the Security Period, except as the Agent may, with the authorisation of the Majority Lenders, otherwise permit.
- 11.2 Title; negative pledge.** The Borrower shall procure that each Guarantor will:
- (a) hold the legal title to and the entire beneficial interest in the Ship owned by it, such Ship’s Insurances and Earnings, free from all Security Interests and other interests and rights of every kind, except for those created by the Finance Documents and the effect of assignments contained in the Finance Documents and except for Permitted Security Interests;

- (b) not create or permit to arise any Security Interest (except for Permitted Security Interests) over any asset which is the subject matter of a Finance Document or over any of its shares;
- (c) not create or permit to arise, any Security Interest (except for Permitted Security Interests) over any other asset, present or future; and
- (d) procure that its liabilities under the Finance Documents to which it is a party do and will rank at least pari passu with all its other present and future unsecured liabilities, except for liabilities which are mandatorily preferred by law.

11.3 No disposal of assets. The Borrower shall procure that no Guarantor shall transfer, lease or otherwise dispose of:

- (a) all or a substantial part of its respective assets, whether by one transaction or a number of transactions, whether related or not; or
- (b) any debt payable to it or any other right (present, future or contingent right) to receive a payment, including any right to damages or compensation,
but paragraph (a) does not apply to any charter of a Ship to which Clause 14.3 (*Repair and classification*) applies.

11.4 No other liabilities or obligations to be incurred. The Borrower shall procure that no Guarantor shall incur any liability or obligation except liabilities and obligations:

- (a) under the Finance Documents to which it is a party;
- (b) reasonably incurred in the ordinary course of the Borrower's business of owning, operating, managing and/or chartering of ships and other ship-related business; and
- (c) incurred in relation to or in connection with, the financing of ships owned or to be acquired by, members of the Group.

11.5 Information provided to be accurate. All financial and other information which is provided in writing by or on behalf of the Borrower under or in connection with any Finance Document will be true and not misleading and will not omit any material fact or consideration.

11.6 Provision of financial statements. The Borrower will provide the Agent or shall procure that the Agent is provided with:

- (a) as soon as possible, but in no event later than 180 days after the end of each Financial Year, annual audited (prepared in accordance with US GAAP by a firm of accountants acceptable to the Agent) consolidated balance sheet and profit and loss accounts of the Borrower (commencing with the Financial Year ending 31 December 2020), together with updated details (in a form acceptable to the Agent) of all off-balance sheet and time-charter hire commitments of each of the Ships and any other ship from time to time (whether before or after the date of this Agreement) owned, managed or crewed by, or chartered to, any Group Member;
- (b) as soon as possible, but in no event later than 90 days after the end of each three month accounting period, commencing with the first financial quarter ending 30 June 2020, the Borrower's unaudited consolidated balance sheet and profit and loss accounts for that 3 month period certified as to their correctness by its chief financial officer; and

- (c) such further financial information about the Borrower, the Guarantors, the Ships (including, but not limited to, present and future revenues, charter arrangements, Financial Indebtedness, employment details, operating expenses and projected capital expenditure) as the Agent may require.
- 11.7 Form of financial statements.** All accounts (audited and unaudited) delivered under Clause 11.6 (*Provision of financial statements*) above will:
- (a) be prepared in accordance with all applicable laws and US GAAP;
- (b) fairly represent the state of affairs of the Group at the date of those financial statements and of its profit for the period to which those financial statements relate; and
- (c) fully disclose or provide for all significant liabilities of the Group.
- 11.8 Shareholder notices.** The Borrower will send to the Agent, at the same time as they are despatched, copies of all communications which are despatched to the Borrower's shareholders or any class of them related to matters which could be considered material in the context of this Agreement and the other Finance Documents, unless publicly announced or filed with a securities exchange.
- 11.9 Consents.** The Borrower will, and shall procure that each Security Party will, maintain in force and promptly obtain or renew, and will promptly send certified copies to the Agent of, all consents required:
- (a) for the Borrower and each Security Party to perform its obligations under any Finance Document to which it is a party;
- (b) for the Approved Manager to perform its obligations under the Management Agreement;
- (c) for the validity or enforceability of any Finance Document to which it is a party;
- (d) for the Shareholder, with effect from the Actual Transfer Date relating to the shares in respect of each Guarantor, to acquire, register in its name and own the shares in the Guarantor to be owned by it under the terms of the SPA; and
- (e) for the Borrower and the Approved Manager each to perform its obligations under the Management Agreement,
- and the Borrower will, and shall procure that the Security Parties shall, comply with the terms of all such consents.
- 11.10 Maintenance of Security Interests.** The Borrower will:
- (a) at its own cost, do all that it reasonably can to ensure that each Finance Document validly creates the obligations and the Security Interests which it purports to create; and
- (b) without limiting the generality of paragraph (a), at its own cost, promptly register, file, record or enrol any Finance Document with any court or authority in all Pertinent Jurisdictions, pay any stamp, registration or similar tax in all Pertinent Jurisdictions in respect of any Finance Document and give any notice or take any other step which to the best of its knowledge is or has become, or which, in the opinion of the Majority Lenders, is or has become necessary or desirable for any Finance Document to be valid, enforceable or admissible in evidence or to ensure or protect the priority of any Security Interest which any Finance Document creates.

- 11.11 Notification of litigation.** The Borrower will provide the Agent with details of any legal or administrative action involving the Borrower, the Approved Manager and any other Security Party (to the best of its knowledge), the SPA, any Ship, the Management Agreement, the Earnings or the Insurances as soon as such action is instituted or it becomes apparent to the Borrower that it is likely to be instituted, unless it is clear that the legal or administrative action cannot be considered material in the context of any Finance Document.
- 11.12 Amendments to Management Agreement.** The Borrower will ensure that neither the relevant Owner nor the Borrower or the Approved Manager or the Third Party Manager will, without the prior written consent of the Agent acting on the instructions of the Majority Lenders (such consent not to be unreasonably withheld), agree to any material amendment or supplement to, or waive any breach in relation to, the Management Agreement.
- 11.13 Principal place of business.** The Borrower will maintain its place of business, and keep its corporate documents and records at the address stated in the definitions to this Agreement; and it will not establish, or do anything as a result of which it would be deemed to have, a place of business in any country other than the Republic of Marshall Islands.
- 11.14 Confirmation of no default.** The Borrower will, within 2 Business Days after service by the Agent of a written request, serve on the Agent a notice which is signed by a duly authorised director of the Borrower and which states that no Event of Default or Potential Event of Default has occurred.
- The Agent may serve requests under this Clause 11.14 from time to time but only if asked to do so by a Lender or Lenders having Commitments exceeding 10 per cent of the Total Commitments; and this Clause 11.14 does not affect the Borrower's obligations under Clause 11.15 (*Notification of default*).
- 11.15 Notification of default.** The Borrower will notify the Agent as soon as it becomes aware of the occurrence of an Event of Default or a Potential Event of Default and will keep the Agent fully up-to-date with all developments.
- 11.16 Provision of further information.** The Borrower will, as soon as practicable after receiving the request, provide the Agent with any additional financial or other information relating:
- (a) to it, the Security Parties, the Ships, the Earnings or the Insurances; or
 - (b) to any other matter relevant to, or to any provision of, a Finance Document or a Management Agreement;
- which may be requested by the Agent, the Security Trustee or any Lender at any time.
- 11.17 Provision of copies and translation of documents.** The Borrower will supply the Agent with a sufficient number of copies of the documents referred to above to provide a copy for each Creditor Party and, if the Agent so requires in respect of any of those documents, it will provide a certified English translation prepared by a translator approved by the Agent.
- 11.18 Sanctions.** Promptly upon becoming aware of them, provide to the Agent the details of any inquiry, claim, action, suit, proceeding or investigation pursuant to Sanctions by any Sanctions Authority against a Security Party, any of the direct or indirect owners of a Security Party, any Affiliate of a Security Party, any of their joint ventures or any of their respective directors, officers, employees, agents or representatives, as well as information on what steps are being taken with regards to answer or oppose the same.

11.19 Money laundering. Promptly upon the Agent's request, the Borrower will supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent in order for each Creditor Party to carry out and be satisfied with the results of all necessary "know your client" or other checks which it is required to carry out in relation to the transactions contemplated by the Finance Documents and to the identity of any parties to the Finance Documents (other than Creditor Parties) and their directors and officers.

11.20 "Know your customer" checks. If:

- (a) 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;
- (b) any change in the status of the Borrower or any Security Party after the date of this Agreement; or
- (c) a proposed assignment or transfer by a Lender of any of its rights and obligations under this Agreement; or
- (d) any anti-money laundering or anti-terrorism financing laws and regulations applicable to the Agent or any Lender

obliges the Agent or any Lender (or, in the case of paragraph (c), 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, the Borrower shall promptly upon the request of the Agent or the Lender concerned 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 the Lender concerned (for itself or, in the case of the event described in paragraph (c), on behalf of any new prospective new Lender) in order for the Agent, the Lender concerned or, in the case of the event described in paragraph (c), 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.

11.21 Class records

The Borrower shall arrange for the Agent to have access electronically to the class records of each Ship by either (i) arranging for the relevant classification society to give the Agent direct access to such class records or (ii) designating the Agent as a user or administrator of the Borrower's electronic accounts with the relevant classification society.

11.22 Insurance opinion

The Borrower shall provide the Agent on request, at the Borrower's cost, with an opinion from insurance consultants on the insurances effected or to be effected in respect of each Ship, confirming that each Ship is insured on terms approved by the Agent or, if such insurance opinion has been obtained by the Agent, shall reimburse the Agent for the cost of such opinion.

11.23 Sanctions

The Borrower shall:

- (a) not be, and shall procure that each other Group Member and each Affiliate of any of them and any director, officer, agent, employee or person acting on behalf of the foregoing is not, a Restricted Person and does not act directly or indirectly on behalf of a Restricted Person;
- (b) not, and shall procure that no other Group Member or any Affiliate of any of them shall, use any revenue or benefit derived from any activity or dealing with a Restricted Person in discharging any obligation due or owing to the Creditor Parties;

- (c) procure that no proceeds from any activity or dealing with a Restricted Person are credited to any bank account held with any Creditor Party in its name or in the name of any other member of the Group or any Affiliate of any of them;
- (d) and shall procure that each other Group Member and any Affiliate of any of them will, to the extent permitted by law, promptly upon becoming aware of them, supply to the Creditor Parties details of any claim, action, suit, proceedings or investigation against it with respect to Sanctions by any Sanctions Authority; and
- (e) not, and shall procure that no other member of the Group or any Affiliate of any of them will, 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 either Borrower or a Creditor Party being in breach of any Sanctions or becoming a Restricted Person, or permit or authorise any other person to do either of (i) or (ii) above.

11.24 Anti-bribery

The Borrower shall ensure that neither they nor any of their respective Affiliates, officers, directors, employees or agents acting on its behalf will offer, give, insist on, receive or solicit any illegal payment or improper advantage to influence the action of any person in connection with any of its business.

11.25 Subordination of claims

The Borrower shall procure that all claims of any Subordinated Creditor against the Borrower or any Guarantor are fully subordinated by such Subordinated Creditor to the rights of the Creditor Parties under the Finance Documents on terms of a Subordination Deed.

11.26 Existing Loan Agreement. The Borrower shall at any time, upon the Agent's written request, enter into, and procure that each Security Party (as defined herein and in the Existing Loan Agreement) enters into such documentation as the Agent may require in order to cross-collateralise and cross secure this Agreement and the Existing Loan Agreement.

11.27 Money Laundering

The Borrower shall:

- (a) provide the Agent with information, certificates and any documents required by the Agent to ensure compliance with any law, official requirement or other regulatory measure or procedure implemented to combat money laundering; and
- (b) notify the Agent as soon as it becomes aware of any matters evidencing that a breach of any law, official requirement or other regulatory measure or procedure implemented to combat money laundering may or is about to occur or that the person(s) who have or will receive the commercial benefit of this Agreement have changed after the date of this Agreement.

12 CORPORATE UNDERTAKINGS

12.1 General. The Borrower also undertakes with each Creditor Party to comply and shall procure that each Guarantor will also comply (as applicable) with the following provisions of this Clause 12 at all times during the Security Period except as the Agent may, with the authorisation of the Majority Lenders, otherwise consent.

- 12.2 Maintenance of status.** The Borrower will maintain and shall procure that each Guarantor will also maintain its separate corporate existence under the laws of the Republic of Marshall Islands.
- 12.3 Negative undertakings.** The Borrower shall procure that no Guarantor will, and in respect of (b) to (d) below, the Borrower will not:
- (a) carry on any business other than the owning, operating, managing and/or chartering of ships and other ship-related business;
 - (b) pay any dividend or make any other form of distribution or effect any form of redemption, purchase or return of share capital **unless:**
 - (i) the Borrower is not in breach of any of their respective obligations under this Agreement and the other Finance Documents and no Event of Default or Potential Event of Default has occurred; and
 - (ii) the Borrower is in compliance with Clause 12.4 and will, following any such payment of dividend or other form of distribution or redemption, purchase or return of share capital, be in compliance with Clause 12.4;
 - (c) provide any form of credit or financial assistance to:
 - (i) a person who is directly or indirectly interested in the Borrower's share or loan capital; or
 - (ii) any company in or with which such a person is directly or indirectly interested or connected;or enter into any transaction with or involving such a person or company on terms which are, in any respect, less favourable to the Borrower than those which it could obtain in a bargain made at arms' length;
 - (d) without the prior written consent of the Agent, acting on the instructions of the Majority Lenders (such consent not to be unreasonably withheld), enter into any form of amalgamation, merger or de-merger, name change or any form of reconstruction or reorganisation, which would (in the case of the Borrower) give rise to a Change of Control Event; and
 - (e) in relation to the Earnings of the Ship owned by it, open or maintain any account with any bank or financial institution except accounts with the Account Bank, the Agent or the Security Trustee for the purposes of the Finance Documents.
- 12.4 Financial covenants of the Borrower.** At all times during the Security Period, by reference to the Latest Accounts, the Borrower ensure that:
- (a) at no time shall the Liquidity of the Group be less than \$500,000 multiplied by the number of vessels owned by any member of the Group;
 - (b) the Net Debt divided by the Total Assets (adjusted for market values of owned vessels) less cash (which shall have the meaning given thereto under US GAAP meaning both restricted and freely available cash) shall be at all times less than 75%;
 - (c) the ratio of EBITDA to Interest Expense shall at all times be at least 2 to 1; and
 - (d) the Net Worth shall at all times be equal to or more than USD135,000,000.

- 12.5 Compliance Check.** Compliance with the undertakings contained in Clause 12.4 (*Financial covenants*) shall be determined by reference to (i) the unaudited consolidated accounts for each consecutive quarter period in each Financial Year of the Borrower and commencing with the first financial quarter ending 30 June, 2020 and (ii) the audited consolidated accounts for each Financial Year of the Borrower and commencing with the Financial Year ending 31 December 2020, each delivered to the Agent pursuant to Clause 11.6 (*Provision of financial statements*) of this Agreement. Unless and until the Agent (acting with the authorisation of the Majority Lenders) otherwise agrees in writing, at the same time as it delivers those consolidated accounts (audited and unaudited) for each consecutive quarter and Financial Year, the Borrower shall deliver to the Agent a Compliance Certificate, signed by the chief financial officer of the Borrower, evidencing calculations and compliance with the financial covenants.
- 12.6 Change in accounting expressions and policies.** If, by reason of change in format or US GAAP or other relevant accounting policies, the expressions appearing in any accounts and financial statements referred to in Clause 11.6 (*Provision of financial statements*) alter from those in the accounts and financial statements for the Group for the Financial Year ended 31 December 2020, the relevant definitions contained in Clause 1.1 (*Definitions*) and the provisions of Clause 12.4 (*Financial covenants*) shall be deemed modified in such manner as the Agent, acting with the authorisation of the Majority Lenders, shall require to take account of such different expressions but otherwise to maintain in all respects the substance of those provisions.
- 12.7 Minimum Liquidity.** The Borrower shall ensure and procure that the Guarantors ensure, that the balance standing to the credit of each Earnings Account shall at all times be no less than \$1,000,000.
- 13 INSURANCE**
- 13.1 General.** The Borrower also undertakes with each Creditor Party to comply with the following provisions of this Clause 13, and ensure that the Guarantors comply with the same, at all times until the last day of the Security Period except as the Agent may, with the authority of the Majority Lenders, otherwise permit.
- 13.2 Maintenance of obligatory insurances.** The Borrower shall procure that each Guarantor shall ensure that the Ship owned by it is insured at its expense against:
- (a) fire and such other risks as are usually contained within a standard marine insurance policy and/or increased value and disbursements policy covering the hull and machinery of such Ship;
 - (b) war risks;
 - (c) protection and indemnity risks; and
 - (d) any other risks against which the Security Trustee considers, having regard to practices and other circumstances prevailing at the relevant time, it would in the opinion of the Security Trustee be reasonable for the Guarantor to insure and which are specified by the Security Trustee by notice to the Borrower and the relevant Guarantor.
- 13.3 Terms of obligatory insurances.** The Borrower shall procure that each Guarantor shall effect such insurances in respect of its Ship:
- (a) in Dollars and/or such currencies as agreed with the Security Trustee;
 - (b) in the case as specified in Clause 13.2 (*Maintenance of obligatory insurances*), cover is to be on an agreed value basis in an amount at least the greater of (i) such amount as when added to the insured value of the other Ships is 120 per cent. of the Loan and (ii) the Fair 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 a standard protection and indemnity entry with an international group protection and indemnity club (currently \$1,000,000,000 in relation to any one event);
- (d) in relation to protection and indemnity risks in respect of each Ship's gross tonnage;
- (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.

13.4 Further protections for the Creditor Parties. In addition to the terms set out in Clause 13.3 (*Terms of obligatory insurances*), the Borrower shall procure that the obligatory insurances shall:

- (a) whenever the Security Trustee requires, name (or be amended to name) the Security Trustee as an additional named assured for its rights and interests, warranted no operational interest and with full waiver of rights of subrogation against the Security Trustee, but without the Security Trustee thereby being liable to pay (but having the right to pay) premiums, calls or other assessments in respect of such insurance;
- (b) name the Security Trustee as loss payee with such directions for payment as the Security Trustee may specify;
- (c) provide that all payments by or on behalf of the insurers under the obligatory insurances to the Security Trustee shall be made without set-off, counterclaim or deductions or condition whatsoever;
- (d) provide that such obligatory insurances shall be primary without right of contribution from other insurances which may be carried by the Security Trustee or any other Creditor Party; and
- (e) provide that the Security Trustee may make proof of loss if the Borrower or the Guarantor fails to do so.

13.5 Renewal of obligatory insurances. The Borrower shall procure that each Guarantor shall:

- (a) before the expiry of any obligatory insurance effected by it:
 - (i) notify the Security Trustee of the brokers (or other insurers) and any protection and indemnity or war risks association through or with whom that Security Party proposes to renew that obligatory insurance and of the proposed terms of renewal; and
 - (ii) obtain the Security Trustee's approval to the matters referred to in paragraph (i);
- (b) as soon as practicable but in any event before the expiry of any obligatory insurance effected by it, renew that obligatory insurance in accordance with the Security Trustee's approval pursuant to paragraph (a); and

- (c) procure that the approved brokers and/or the war risks and protection and indemnity associations with which such a renewal is effected shall promptly after the renewal notify the Security Trustee in writing of the terms and conditions of the renewal.

13.6 Copies of policies; letters of undertaking. The Borrower shall procure that each Guarantor shall ensure that all approved brokers provide the Security Trustee as soon as practicable with pro forma copies of all policies relating to the obligatory insurances which have been effected or renewed and of a letter or letters or undertaking in a form required by the Security Trustee and that:

- (a) 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 13.4 (*Further protections for the Creditor Parties*);
- (b) they will hold such policies, and the benefit of such insurances, to the order of the Security Trustee in accordance with the said loss payable clause;
- (c) they will advise the Security Trustee immediately of any material change to the terms of the obligatory insurances;
- (d) they will notify the Security Trustee, before the expiry of the obligatory insurances, in the event of their not having received notice of renewal instructions from the relevant Guarantor or its agents and, in the event of their receiving instructions to renew, they will promptly notify the Security Trustee 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 Ship owned by the relevant Guarantor under such obligatory insurances any premiums or other amounts due to them or any other person whether in respect of any of the Ships 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 the Ships forthwith upon being so requested by the Security Trustee.

13.7 Copies of certificates of entry. The Borrower shall procure that each Guarantor shall ensure that for any protection and indemnity and/or war risks associations in which a Ship is entered the Security Trustee will be provided 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 Security Trustee;
- (c) where required to be issued under the terms of insurance/indemnity provided by the relevant Guarantor's protection and indemnity association, a certified copy of each United States of America voyage quarterly declaration (or similar document or documents) made by the relevant Guarantor in relation to the Ship owned by it in accordance with the requirements of such protection and indemnity association; and
- (d) 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 relevant Ship.

13.8 Deposit of original policies. The Borrower shall procure that each Guarantor shall ensure that all policies issued and relating to obligatory insurances are deposited by the relevant Guarantor with the approved intermediaries or other approved parties through which the insurances are effected or renewed.

- 13.9 Payment of premiums.** The Borrower shall procure that each Guarantor shall punctually pay all premiums or other sums payable in respect of the obligatory insurances terms and conditions, and produce all relevant receipts when so required by the Security Trustee.
- 13.10 Guarantees.** The Borrower shall procure that each Guarantor 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.
- 13.11 Compliance with terms of insurances.** The Borrower shall procure that each Guarantor shall not 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) the relevant Guarantor 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 13.6(c) (*Copies of policies; letters of undertaking*)) ensure that the obligatory insurances are not made subject to any exclusions or qualifications to which the Security Trustee has not given its prior approval;
 - (b) a Guarantor shall 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;
 - (c) the relevant Guarantor shall, make (and promptly supply copies to the Agent of) all quarterly or other voyage declarations which may be required by the protection and indemnity risks association in which its Ship 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
 - (d) a Guarantor shall not employ its Ship, nor allow such Ship 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.
- 13.12 Alteration to terms of insurances.** The Borrower shall procure that each Guarantor shall not make or agree to any alteration to the terms of any obligatory insurance nor waive any right relating to any obligatory insurance.
- 13.13 Settlement of claims.** The Borrower shall procure that no Guarantor shall settle, compromise or abandon any claim under any obligatory insurance for Total Loss or for a Major Casualty, and shall do all things necessary and provide all documents, evidence and information to enable the Security Trustee to collect or recover any moneys which at any time become payable in respect of the obligatory insurances.
- 13.14 Provision of copies of communications.** The Borrower shall and shall procure that each Guarantor shall, promptly upon request by the Agent provide the Security Trustee, copies of all written communications which are material in the context of the Borrower's and the Guarantor's obligations under the Finance Documents between it and:
- (a) the approved brokers or insurers; 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) the relevant Guarantor'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 the relevant Guarantor 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.

13.15 Provision of information. In addition, the Borrower shall and shall procure that each Guarantor shall, promptly provide the Security Trustee (or any persons which it may designate) with any information which the Security Trustee (or any such designated person) requests for the purpose of:

- (a) obtaining or preparing any report from an independent marine insurance broker or consultant 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 13.16 (*Mortgagee's interest insurance*) or dealing with or considering any matters relating to any such insurances;

and the Borrower shall, forthwith upon demand, indemnify the Security Trustee in respect of all fees and other expenses incurred by or for the account of the Security Trustee in connection with any such report as is referred to in paragraph (a) above.

13.16 Mortgagee's interest insurance. The Security Trustee (acting on behalf of all the Lenders) shall be entitled, at the Borrower's cost, from time to time to effect, maintain and renew a mortgagee's interest and pollution risks insurance policy (including additional perils (pollution) cover) in an amount equal to at least 120% of the Loan such terms, through such insurers and generally in such manner as the Security Trustee may from time to time consider appropriate.

13.17 Review of insurance requirements. The Majority Lenders shall be entitled to review the requirements of this Clause 13 (*Insurance*) from time to time in order to take account of any changes in circumstances after the date of this Agreement which are, in the opinion of the Majority Lenders, significant and capable of affecting the Borrower or an Owner or any Ship and its or their insurance (including, without limitation, changes in the availability or the cost of insurance coverage or the risks to which an Owner may be subject), and may appoint insurance consultants in relation to this review at the cost of the Borrower.

13.18 Modification of insurance requirements. The Security Trustee shall notify the Borrower and the relevant Owner of any proposed modification under Clause 13.17 (*Review of insurance requirements*) to the requirements of this Clause 13 which the Majority Lenders reasonably consider appropriate in the circumstances, and such modification shall take effect on and from the date it is notified in writing to the Borrower as an amendment to this Clause 13 and shall bind the Borrower and the relevant Owner accordingly.

13.19 Compliance with mortgagee's instructions. The Security Trustee shall be entitled (without prejudice to or limitation of any other rights which it may have or acquire under any Finance Document) to require a Ship to remain at any safe port or to proceed to and remain at any safe port designated by the Security Trustee until the relevant Guarantor implements any amendments to the terms of the obligatory insurances and any operational changes required as a result of a notice served under Clause 13.18 (*Modification of insurance requirements*).

13.20 Assured and Co-Assured. If persons other than the relevant Guarantor and/or Security Trustee are named as assureds or co-assureds in the insurance policy of the relevant Ship, the Borrower shall procure that these persons assign their insurances to the Security Trustee upon such terms and conditions as the Security Trustee may require.

14 SHIP'S COVENANTS

- 14.1 General.** The Borrower also undertakes with each Creditor Party to procure that each Guarantor comply in relation to its Ship, with the following provisions of this Clause 14 at all times until the last day of the Security Period except as the Agent, with the authority of the Majority Lenders, may otherwise permit (such permission not to be unreasonably withheld in the case of Clause 14.13(b) (*Restriction on chartering, appointment of managers etc.*)).
- 14.2 Ship's name and registration.** The Borrower shall procure that each Guarantor shall keep the Ship owned by it registered in its name under an Approved Flag free of any Security Interest other than a Permitted Security Interest; and shall not do, omit to do or allow to be done anything as a result of which such registration might be cancelled or imperilled; and shall not, without the prior written consent of the Security Trustee change the name or port of registry of the Ship owned by it.
- 14.3 Repair and classification.** The Borrower shall procure that each Guarantor 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;
 - (b) so as to maintain that Ship's class with Lloyds Register of Shipping or Germanischer Lloyd AG (or such other first-class classification society which is a member of IACS acceptable to the Agent, such acceptance not to be unreasonably withheld or delayed) free of overdue recommendations and conditions affecting that Ship's class that have not been complied with in accordance with their terms; and
 - (c) so as to comply with all laws and regulations applicable to vessels registered at ports in the relevant Approved Flag State or to vessels trading to any jurisdiction to which that Ship may trade from time to time, including but not limited to the ISM Code, the ISPS Code and the MARPOL Protocol.
- 14.4 Classification society undertaking.** The Borrower shall procure that each Guarantor shall instruct the classification society referred to in Clause 14.3(b) (*Repair and classification*) (and procure that the classification society undertakes with the Security Trustee):
- (a) to send to the Security Trustee, following receipt of a written request from the Security Trustee, certified true copies of all original class records held by the classification society in relation to the Ship owned by the relevant Guarantor;
 - (b) to allow the Security Trustee (or its agents), at any time and from time to time, to inspect the original class and related records of that Guarantor and its Ship at the offices of the classification society and to take copies of them;
 - (c) to notify the Security Trustee immediately in writing if the classification society:
 - (i) receives notification from the relevant Guarantor or any person that the Ship'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, suspension, discontinuance, withdrawal or expiry of the Ship's class under the rules or terms and conditions of the relevant Guarantor's or its Ship's membership of the classification society;
 - (d) following receipt of a written request from the Security Trustee:

- (i) to confirm that the relevant Guarantor is not in default of any of its contractual obligations or liabilities to the classification society and, without limiting the foregoing, that it has paid in full all fees or other charges due and payable to the classification society; or
- (ii) if the relevant Guarantor is in default of any of its contractual obligations or liabilities to the classification society, to specify to the Security Trustee in reasonable detail the facts and circumstances of such default, the consequences thereof, and any remedy period agreed or allowed by the classification society.

14.5 Modification. The Borrower shall procure that no Guarantor shall make any modification or repairs to, or replacement of, the Ship owned by it or equipment installed on its Ship which would or might materially alter the structure, type or performance characteristics of that Ship or materially reduce its value.

14.6 Removal of parts. The Borrower shall procure that no Guarantor shall remove any material part of the Ship owned by it, or any item of equipment installed on, the Ship unless 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, is free from any Security Interest or any right in favour of any person other than the Security Trustee and becomes on installation on the Ship the property of that Guarantor and subject to the security constituted by the Mortgage, relative to the Ship **Provided that** a Guarantor may install equipment owned by a third party if the equipment can be removed without any material risk of damage to the Ship.

14.7 Surveys. The Borrower shall procure that each Guarantor shall submit the Ship owned by it regularly to all periodical or other surveys which may be required for classification purposes and, if so required by the Security Trustee, provide the Security Trustee, with copies of all survey reports.

14.8 Inspection. The Borrower shall procure that each Guarantor shall permit and facilitate the Security Trustee (by surveyors or other persons appointed by it for that purpose) to board the Ship owned by it at all reasonable times to inspect its condition or to satisfy themselves about proposed or executed repairs (at the Borrower's or the relevant Guarantor's cost) and shall afford all proper facilities for such inspections, at the cost of the Borrower or the Guarantor for one such inspection per Ship in each calendar year and otherwise at the Agent's cost.

14.9 Prevention of and release from arrest. The Borrower shall procure that each Guarantor shall promptly discharge:

- (a) all liabilities which give or may give rise to maritime or possessory liens on or claims enforceable against its Ship, its Earnings or its Insurances;
- (b) all taxes, dues and other amounts charged in respect of its Ship, its Earnings or its Insurances; and
- (c) all other outgoings whatsoever in respect of its Ship, the Earnings or the Insurances;

and, forthwith upon receiving notice of the arrest of a Ship, or of its detention in exercise or purported exercise of any lien or claim, the Borrower shall procure that the relevant Guarantor shall procure its release by providing bail or otherwise as the circumstances may require.

14.10 Compliance with laws etc. The Borrower shall procure that each Guarantor shall:

- (a) comply, or procure compliance with the ISM Code, the ISPS code, the MARPOL Protocol and Environmental Laws and all other laws or regulations relating to the Ship owned by it, its ownership, operation and management or to the business that Guarantor;

- (b) comply, and will use best endeavours to procure that each Security Party and each other Group Member will, comply in all respect with all Sanctions;
- (c) not employ the Ship 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, the ISPS code and the MARPOL Protocol; and
- (d) in the event of hostilities in any part of the world (whether war is declared or not), not cause or permit its Ship to enter or trade to any zone which is declared a war zone by any government or by its Ship's war risks insurers unless the prior written consent of the Security Trustee has been given and the relevant Guarantor has (at its expense) effected any special, additional or modified insurance cover which the Security Trustee may require.

14.11 Provision of information. The Borrower shall procure that each Guarantor shall promptly provide the Security Trustee with any information which it requests regarding:

- (a) the Ship owned by it, its employment, position and engagements;
- (b) the Earnings and payments and amounts due to its Ship's master and crew;
- (c) any expenses incurred, or likely to be incurred, in connection with the operation, maintenance or repair of its Ship and any payments made in respect of that Ship;
- (d) any towages and salvages;
- (e) that Guarantor's, the Approved Manager's, the Third Party Manager's (if applicable) or its Ship's compliance with the ISM Code, the ISPS Code and the MARPOL Protocol;

and, upon the Security Trustee's request, provide copies of any current charter relating to any Ship, of any current charter guarantee and copies of the relevant Guarantor's or the Approved Manager's or the Third Party's Manager Document of Compliance.

14.12 Notification of certain events. The Borrower shall procure that each Guarantor shall immediately notify the Security Trustee by fax, confirmed forthwith by letter, of:

- (a) any casualty which is or is likely to be or to become a Major Casualty;
- (b) any occurrence as a result of which the Ship 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 classification society or by any competent authority which is not complied with within the relevant specified time limit or, in the absence of such time limit, promptly;
- (d) any arrest or detention of a Ship, any exercise or purported exercise of any lien on a Ship or its Earnings or any requisition of that Ship for hire;
- (e) any Environmental Claim made against a Guarantor or the Approved Manager or in connection with any Ship or any Environmental Incident;
- (f) any claim for breach of the ISM Code, the ISPS Code or the MARPOL Protocol being made against an Owner or the Approved Manager or the Third Party Manager or otherwise in connection with any Ship; or

- (g) any other matter, event or incident, actual or threatened, the effect of which will or could lead to the ISM Code, the ISPS Code or the MARPOL Protocol not being complied with;

and the Borrower shall and shall procure that each Guarantor shall keep the Security Trustee advised in writing on a regular basis and in such detail as the Security Trustee shall require of the Borrower's, the relevant Owner's, the Approved Manager's, the Third Party Manager's or any other person's response to any of those events or matters.

14.13 Restrictions on chartering, appointment of managers etc. The Borrower shall procure that no relevant Guarantor shall:

- (a) let the Ship owned by it on demise charter for any period;
- (b) enter into any time or consecutive voyage charter in respect of the Ship owned by it for a term which exceeds, or which by virtue of any optional extensions may exceed, 12 months;
- (c) enter into any charter in relation to its Ship under which more than 2 months' hire (or the equivalent) is payable in advance;
- (d) charter its Ship otherwise than on bona fide arm's length terms at the time when that Ship is fixed;
- (e) appoint a manager of its Ship other than the entities advised to the Agent at the date of this Agreement as the Approved Manager or Third Party Manager of each Ship, provided that the Creditor Parties consent to the change of management of each ship to either entity being the Approved Manager and the Third Party Manager in respect of each Ship at the date of this Agreement on the condition that such Approved Manager or Third Party Manager deliver to the Agent, to the Agent's satisfaction (i) a certified true copy of the Management Agreement, (ii) a Manager's Undertaking in the Agreed Form and (iii) in relation to such Approved Manager or Third Party Manager, items 1, 2, 3, 4, 6, 7, 8 and 9 included in Schedule 3, Part A of this Agreement and items 2(f) and 3(b) included in Schedule 3, Part B of this Agreement;
- (f) agree to any alteration to the material terms of the Management Agreement relating to its Ship or to any other terms of the Approved Manager's and the Third Party Manager's appointment;
- (g) de-activate or lay up its Ship for more than 30 days; or
- (h) put its Ship into the possession of any person for the purpose of work being done upon it in an amount exceeding or likely to exceed \$500,000 (or the equivalent in any other currency), which amount shall exclude dry-docking costs, unless the Agent (acting with authorisation of the Majority Lenders) has given prior approval in writing.

14.14 Notice of Mortgage. The Borrower shall procure that each Guarantor shall keep the relevant Mortgage registered against the Ship owned by it as a valid first priority 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 the relevant Guarantor to the Security Trustee; and

14.15 Sharing of Earnings. The Borrower shall not, and shall procure that no Owner shall, enter into any agreement or arrangement for the sharing of any Earnings other than any time or voyage charters with profit sharing clauses.

- 14.16 ISPS Code.** The Borrower shall procure that each Guarantor shall comply with the ISPS Code and in particular, without limitation, shall:
- (a) procure that its Ship and the company responsible for such Ship's compliance with the ISPS Code comply with the ISPS Code; and
 - (b) maintain for its Ship an ISSC; and
 - (c) notify the Agent immediately in writing of any actual or threatened withdrawal, suspension, cancellation or modification of the ISSC.
- 14.17 Charters etc.** The Borrower shall (i) deliver to the Agent a certified copy of each Extended Employment Contract upon its execution, (ii) forthwith on the Agent's request procure that the relevant Guarantor executes (a) a Charter Assignment in respect thereof and (b) any notice of assignment required in connection therewith and use reasonable commercial efforts to procure the acknowledgement of any such notice of assignment by the relevant charterer (provided that any failure to procure the same shall not constitute an Event of Default) and (iii) pay all legal and other costs incurred by the Agent in connection with any such Charter Assignments forthwith following the Agent's demand.
- 14.18 Inventory of Hazardous Material.** The Borrower shall procure that (if not already in place) immediately following completion of its next dry-docking but in no event later than the date required by the applicable regulation, each Ship shall hold at all times during the Facility Period an Inventory of Hazardous Material or equivalent document,
- where "**Inventory of Hazardous Material**" means a statement of compliance issued by the relevant classification society which includes a list of any and all materials known to be potentially hazardous utilised in the construction of a Ship also referred to as "List of Hazardous Materials".
- 14.19 Sustainable Vessel dismantling.** The Borrower confirms that as long as it is in a lending relationship with ABN AMRO BANK N.V. it will ensure that any Ship controlled by it or sold to an intermediary with the intention of being scrapped, 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 and/or the EU Ship Recycling Regulation,
- where "**EU Ship Recycling Regulation**" means Regulation (EU) No 1257/2013 of the European Parliament and of the Council of 20 November 2013 on ship recycling and amending Regulation (EC) No 1013/2006 and Directive 2009/16/EC (Text with EEA relevance).
- 14.20 Dry-docking/BWTS.** The Borrower shall procure that before the Maturity Date each Ship must (i) undergo and pass her next due dry-docking and (ii) have installed on her a ballast water treatment system in all respects compliant with class and/or flag requirements.
- 14.21 Inspection Reports.** The Borrower shall provide to the Agent, upon the Agent's request from time to time, an inspection report in respect of each Ship which is subject to a Mortgage, in a form and substance, and from a marine surveyor, acceptable to the Agent.

15 SECURITY COVER

- 15.1 Minimum required security cover.** Clause 15.2 (*Provision of additional security; prepayment*) applies if the Agent notifies the Borrower that:
- (a) the aggregate of the Fair Market Values (determined as provided in Clause 15.3 (*Valuation of Ship*)) of the Ships subject to a Mortgage; plus

(b) the net realisable value of any additional security previously provided under this Clause 15; is below 140% of the Loan.

15.2 Provision of additional security; prepayment. If the Agent serves a notice on the Borrower under Clause 15.1 (*Minimum required security cover*), the Borrower shall, within 1 month after the date on which the Agent's notice is served, either:

- (a) provide, or ensure that a third party provides, additional security which, in the opinion of the Majority Lenders, has a net realisable value at least equal to the shortfall and is documented in such terms as the Agent may, with the authorisation of the Majority Lenders, approve or require; or
- (b) prepay and/or cancel, in accordance with Clause 8 (*Repayment and Prepayment*), such part (at least) of the Loan as will eliminate the shortfall.

15.3 Valuation of Ship. The Fair Market Value of a Ship at any date is that shown as the average of valuations prepared by two Approved Brokers selected and appointed by the Agent:

- (a) as at a date not more than 30 days previously;
- (b) with or without physical inspection of that Ship (as the Agent may require); and
- (c) 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 existing charter or other contract of employment.

Valuations shall be obtained by the Borrower and addressed to the Agent:

- (a) prior to (but dated no more than 30 days prior to) the Drawdown Date;
- (b) at six-monthly intervals commencing on 30 June 2020; and
- (c) (in addition to (a) and (b) above) at any other time as the Agent shall require (in its absolute discretion).

15.4 Value of additional vessel security. The net realisable value of any additional security which is provided under Clause 15.2 (*Provision of additional security; prepayment*) and which consists of a Security Interest over a vessel shall be that shown by a valuation complying with the requirements of Clause 15.3 (*Valuation of Ship*).

15.5 Valuations binding. Any valuation under Clause 15.2 (*Provision of additional security; prepayment*), 15.3 (*Valuation of Ship*) or 15.4 (*Value of additional vessel security*) shall be binding and conclusive as regards the Borrower, as shall be any valuation which the Majority Lenders make of any additional security which does not consist of or include a Security Interest.

15.6 Provision of information. The Borrower shall promptly provide the Agent and any Approved Broker or expert acting under Clause 15.3 (*Valuation of Ship*) or 15.4 (*Value of additional vessel security*) with any information which the Agent or the Approved Broker or expert may request for the purposes of the valuation; and, if the Borrower fails to provide the information by the date specified in the request, the valuation may be made on any basis and assumptions which the Approved Broker or the Majority Lenders (or the expert appointed by them) consider prudent.

15.7 Payment of valuation expenses. Without prejudice to the generality of the Borrower's obligations under Clauses 20 (*Expenses*) and 21 (*Indemnities*), the Borrower shall, on demand, pay the Agent the amount of the fees and expenses of any Approved Broker instructed under this Clause 15.

16 PAYMENTS AND CALCULATIONS

- 16.1 Currency and method of payments.** All payments to be made by the Lenders or by the Borrower under a Finance Document shall be made to the Agent or to the Security Trustee, in the case of an amount payable to it:
- (a) by not later than 11.00 a.m. (New York City time) on the due date;
 - (b) in same day Dollar funds settled through the New York Clearing House Interbank Payments System (or in such other Dollar funds and/or settled in such other manner as the Agent shall specify as being customary at the time for the settlement of international transactions of the type contemplated by this Agreement);
 - (c) in the case of an amount payable by a Lender to the Agent or by the Borrower to the Agent or any Lender, to such account as the Agent may from time to time notify to the Borrower and the other Creditor Parties for this purpose; and
 - (d) in the case of an amount payable to the Security Trustee, to such account as it may from time to time notify to the Borrower and the other Creditor Parties.
- 16.2 Payment on non-Business Day.** If any payment by the Borrower or a Security Party under a Finance Document would otherwise fall due on a day which is not a Business Day:
- (a) the due date shall be extended to the next succeeding Business Day; or
 - (b) if the next succeeding Business Day falls in the next calendar month, the due date shall be brought forward to the immediately preceding Business Day;
 - (c) and interest shall be payable during any extension under paragraph (a) at the rate payable on the original due date.
- 16.3 Basis for calculation of periodic payments.** All interest and commitment fee and guarantee fee and any other payments under any Finance Document which are of an annual or periodic nature shall accrue from day to day and shall be calculated on the basis of the actual number of days elapsed and a 360 day year.
- 16.4 Distribution of payments to Creditor Parties.** Subject to Clauses 16.5 (*Permitted deductions by Agent*), 16.6 (*Agent only obliged to pay when monies received*) and 16.7 (*Refund to Agent of monies not received*):
- (a) any amount received by the Agent under a Finance Document for distribution or remittance to a Creditor Party shall be made available by the Agent to that Creditor Party by payment, with funds having the same value as the funds received, to such account as the Creditor Party may have notified to the Agent not less than 3 Business Days previously; and
 - (b) amounts to be applied in satisfying amounts of a particular category which are due to the Lenders generally shall be distributed by the Agent to each Lender pro rata to the amount in that category which is due to it.
- 16.5 Permitted deductions by Agent.** Notwithstanding any other provision of this Agreement or any other Finance Document, the Agent may, before making an amount available to a Lender, deduct and withhold from that amount any sum which is then due and payable to the Agent from that Lender under any Finance Document or any sum which the Agent is then entitled under any Finance Document to require that Lender to pay on demand.

- 16.6 Agent only obliged to pay when monies received.** Notwithstanding any other provision of this Agreement or any other Finance Document, the Agent shall not be obliged to make available to the Borrower, any Lender any sum which the Agent is expecting to receive for remittance or distribution to that Borrower, to that Lender until the Agent has satisfied itself that it has received that sum.
- 16.7 Refund to Agent of monies not received.** If and to the extent that the Agent makes available a sum to the Borrower or a Lender, without first having received that sum, the Borrower or (as the case may be) the Lender concerned shall, on demand:
- (a) refund the sum in full to the Agent; and
 - (b) pay to the Agent the amount (as certified by the Agent) which will indemnify the Agent against any funding or other loss, liability or expense incurred by the Agent as a result of making the sum available before receiving it.
- 16.8 Agent may assume receipt.** Clause 16.7 (*Refund to Agent of monies not received*) shall not affect any claim which the Agent has under the law of restitution, and applies irrespective of whether the Agent had any form of notice that it had not received the sum which it made available.
- 16.9 Creditor Party accounts.** Each Creditor Party shall maintain accounts showing the amounts owing to it by the Borrower and each Security Party under the Finance Documents and all payments in respect of those amounts made by the Borrower and any Security Party.
- 16.10 Agent's memorandum account.** The Agent shall maintain a memorandum account showing the amounts advanced by the Lenders and all other sums owing to each Creditor Party from the Borrower and each Security Party under the Finance Documents and all payments in respect of those amounts made by the Borrower and any Security Party.
- 16.11 Accounts prima facie evidence.** If any accounts maintained under Clauses 16.9 (*Creditor Party Accounts*) and 16.10 (*Agent's memorandum account*) show an amount to be owing by the Borrower or a Security Party to a Creditor Party, those accounts shall be prima facie evidence that that amount is owing to that Creditor Party in the absence of manifest error.
- 16.12 FATCA Information**
- (a) Subject to subclause (c) below, each party to a Finance Document shall, within ten Business Days of a reasonable request by another party to the Finance Documents:
 - (i) confirm to that other party whether it is a FATCA Exempt Party or is not a FATCA Exempt Party;
 - (ii) supply to the requesting party such forms, documentation and other information relating to its status under FATCA as the requesting party reasonably requests for the purposes of such requesting party's compliance with FATCA; and
 - (iii) supply to the requesting party such forms, documentation and other information relating to its status as the requesting party reasonably requests for the purposes of the requesting party's compliance with any other law, regulation, or exchange of information regime.
 - (b) If a party to any Finance Document confirms to another party pursuant to subclause (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 and the Agent reasonably promptly.

- (c) Subclause (a) above shall not oblige any Creditor Party to do anything, and Subclause (a) (iii) above shall not oblige any other party to a Finance Document to do anything, which would or might in its reasonable opinion constitute a breach of any law or regulation, any policy of that Creditor Party, any fiduciary duty or any duty of confidentiality.
- (d) If a party to any Finance Document fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with subclause (a)(i) or (ii) above (including, 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.

16.13 FATCA Deduction

- (a) A party to any Finance Document 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 to any Finance Document 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) A party to any Finance Document 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, the Agent and the other Creditor Parties.

17 APPLICATION OF RECEIPTS

17.1 Normal order of application. Except as any Finance Document may otherwise provide, any sums which are received or recovered by any Creditor Party under or by virtue of any Finance Document shall be applied:

- (a) FIRST: in or towards payment pro rata of any unpaid fees, costs and expenses of the Agent and the Security Trustee and the other Creditor Parties under the Finance Documents;
- (b) SECONDLY: in or towards payment pro rata of any accrued interest due but unpaid under this Agreement;
- (c) THIRDLY: in or towards payment pro rata of any principal due but unpaid under this Agreement;
- (d) FOURTHLY: in or towards payment pro rata of any other amounts due but unpaid under any Finance Document;
- (e) FIFTHLY: in retention of an amount equal to any amount not then due and payable under any Finance Document but which the Lender, by notice to the Borrower and the Security Parties, states in its opinion will or may become due and payable in the future and, upon those amounts becoming due and payable, in or towards satisfaction of them in accordance with the provisions of Clause 17.1 (*Normal order of application*) (a), (b), (c) and (d); and
- (f) SIXTHLY: any surplus shall be paid to the Borrower or to any other person entitled to it.

- 17.2 Variation of order of application.** The Agent may, with the authorisation of the Lenders, by notice to the Borrower, the Security Parties and the other Creditor Parties provide for a different manner of application from that set out in Clause 17.1 (*Normal order of application*) either as regards a specified sum or sums or as regards sums in a specified category or categories.
- 17.3 Notice of variation of order of application.** The Agent may give notices under Clause 17.2 (*Variation of order of application*) from time to time; and such a notice may be stated to apply not only to sums which may be received or recovered in the future, but also to any sum which has been received or recovered on or after the third Business Day before the date on which the notice is served.
- 17.4 Appropriation rights overridden.** This Clause 17 and any notice which the Agent gives under Clause 17.2 (*Variation of order of application*) shall override any right of appropriation possessed, and any appropriation made, by the Borrower or any Security Party.

18 APPLICATION OF EARNINGS, LOCATION OF ACCOUNTS

- 18.1 Payment of Earnings.** The Borrower undertakes with each Creditor Party to ensure that, throughout the Security Period (subject only to the provisions of the Mortgages and the General Assignments), all the Earnings in respect of a Ship are paid to the Earnings Account applicable to the Guarantor which is the owner of such Ship;
- 18.2 Application of Earnings.** The Borrower undertakes with each Creditor Party that money from time to time credited to, or for the time being standing to the credit of, an Earnings Account shall, unless and until an Event of Default or Potential Event of Default shall have occurred (whereupon the provisions of Clause 17.1 (*Normal order of application*) shall be and become applicable), be available for application in the following manner:
- (a) FIRSTLY: in or towards meeting the costs, fees and expenses payable by the Borrower under the Finance Documents;
 - (b) SECONDLY: in or towards making the transfers to the Retention Account pursuant to Clause 18.3 (*Monthly retentions*); and
 - (c) THIRDLY: in or towards meeting the costs and expenses from time to time incurred by or on behalf of the Borrower or the Guarantors in connection with the operation of the Ships.
- 18.3 Monthly retentions.** The Borrower undertakes with each Creditor Party to ensure that, throughout the Security Period on the same day in each month, there is transferred to the Retention Account:
- (a) one-third of the repayment instalment in respect of the Loan falling due under Clause 8.1 (*Payment of Earnings*) on the next Repayment Date; and
 - (b) the relevant fraction of the aggregate amount of interest on the Loan which is payable on the next due date for payment of interest.

Where:

“**relevant fraction**” is a fraction of which the numerator is 1 and the denominator the number of months comprised in the then current Interest Period (or, if current Interest Period ends after the next date for payment of interest under this Agreement, the number of months from the later of the commencement of the current Interest Period or the last due date for payment of interest to the next date for payment of interest under this Agreement).

- 18.4 Shortfall in Earnings.** If the aggregate Earnings received in the Earnings Accounts are insufficient in any month for the required amount to be transferred to any Retention Account under Clause 18.3 (*Monthly retentions*), the Borrower shall make up the amount of the insufficiency by payment in Dollars to the Retention Account.
- 18.5 Application of retentions.** Until an Event of Default or a Potential Event of Default occurs, the Account Bank shall on each Repayment Date and on each due date for the payment of interest under this Agreement pay to the Agent, for the Agent to distribute to the Lenders in accordance with Clause 16.4 so much of the then balance on the Retention Account as equals:
- (a) the repayment instalment due on that Repayment Date; or, as the case may be,
 - (b) the amount of interest payable on that interest payment date
- in discharge of the Borrower's liability for that repayment instalment or that interest.
- 18.6 Location of accounts.** The Borrower shall promptly:
- (a) comply, and procure that the Guarantors comply, with any requirement of the Agent as to the location or re-location of the Earnings Accounts, the Retention Account or any of them, provided that those accounts must at all times be with the Account Bank; and
 - (b) execute, and procure that the Guarantors execute, any documents which the Agent specifies to create or maintain in favour of the Security Trustee a Security Interest over the Earnings Accounts and the Retention Account.
- 18.7 Borrower's obligations unaffected.** The provisions of this Clause 18 do not affect:
- (a) the liability of the Borrower to make payments of principal and interest on the due dates; or
 - (b) any other liability or obligation of the Borrower or any Security Party under any Finance Document.

19 EVENTS OF DEFAULT

19.1 Events of Default. An Event of Default occurs if:

- (a) any Security Party fails to pay any sum payable by it under any of the Finance Documents at the time, in the currency and in the manner stipulated in the Finance Documents (and so that, for this purpose, sums payable (i) under clauses 5.1 and 8.1 shall be treated as having been paid at the stipulated time if (aa) received by the Agent within two (2) days of the dates therein referred to and (bb) such delay in receipt is caused by administrative or other delays or errors within the banking system and (ii) on demand shall be treated as having been paid at the stipulated time if paid within three (3) Business Days of demand); or
- (b) any breach occurs of Clause 9.3 (*Conditions Subsequent*), 11.2 (*Title; negative pledge*), 11.3 (*No disposal of assets*), 11.24 (*Sanctions*), 12.2 (*Maintenance of status*), 12.3 (*Negative Undertakings*), 12.4 (*Financial covenants*) or 15.2 (*Provision of additional security; prepayment*) of this Agreement; or
- (c) any breach by the Borrower or any Security Party occurs of any provision of a Finance Document (other than a breach covered by paragraphs (a) or (b)) which, in the reasonable opinion of the Majority Lenders, is capable of remedy, and such default continues unremedied 15 days after written notice from the Agent requesting action to remedy the same; or

- (d) (subject to any applicable grace period specified in any Finance Document) any breach by the Borrower or any Security Party occurs of any provision of a Finance Document (other than a breach falling within paragraphs (a), (b) or (c)); or
- (e) any representation, warranty or statement made or repeated by, or by an officer of, the Borrower or a Security Party in a Finance Document or in the Drawdown Notice or any other notice or document relating to a Finance Document is untrue or misleading in a material respect when it is made or repeated; or
- (f) any of the following occurs in relation to any Financial Indebtedness (exceeding \$10,000,000 in respect of the Borrower and \$1,000,000 for all other Relevant Persons) of a Relevant Person:
 - (i) any Financial Indebtedness of a Relevant Person is not paid when due; or
 - (ii) any Financial Indebtedness of a Relevant Person becomes due and payable prior capable of being declared due and payable prior to its stated maturity date as a consequence of any event of default; or
 - (iii) any overdraft, loan, note issuance, acceptance credit, letter of credit, guarantee, foreign exchange or other facility, or any swap or other derivative contract or transaction, relating to any Financial Indebtedness of a Relevant Person ceases to be available or becomes capable of being terminated as a result of any event of default, or cash cover is required, or becomes capable of being required, in respect of such a facility as a result of any event of default; or
 - (iv) an event of default howsoever described (or any event which with the giving of notice, lapse of time, determination of materiality or fulfillment of any other applicable condition or any combination of the foregoing would constitute such an event of default) occurs under any document relating to Financial Indebtedness of a Relevant Person; or
 - (v) any Security Interest securing any Financial Indebtedness of a Relevant Person becomes enforceable; or
- (g) any of the following occurs in relation to a Relevant Person:
 - (i) a Relevant Person becomes, in the reasonable opinion of the Majority Lenders, unable to pay its debts as they fall due; or
 - (ii) any assets of a Relevant Person are subject to any form of execution, attachment, arrest, sequestration or distress, or any form of freezing order, in respect of a sum of, or sums aggregating, \$10,000,000 or more in respect of the Borrower and \$1,000,000 or more for all other Relevant Persons or the equivalent in another currency and, in respect of a Relevant Person other than a Security Party, the same is not lifted within 30 days; or
 - (iii) any administrative or other receiver is appointed over any asset of a Relevant Person; or
 - (iv) an administrator is appointed (whether by the court or otherwise) in respect of a Relevant Person; or
 - (v) any formal declaration of bankruptcy or any formal statement to the effect that a Relevant Person is insolvent or likely to become insolvent is made by a Relevant Person or by the directors of a Relevant Person or, in any proceedings, by a lawyer acting for a Relevant Person; or

- (vi) a provisional liquidator is appointed in respect of a Relevant Person, a winding up order is made in relation to a Relevant Person or a winding up resolution is passed by a Relevant Person; or
- (vii) a resolution is passed, and administration notice is given or filed, an application or petition to a court is made or presented or any other step is taken by (a) a Relevant Person, (b) the members or directors of a Relevant Person, (c) a holder of Security Interests which together relate to all or substantially all of the assets of a Relevant Person, or (d) a government minister or public or regulatory authority of a Pertinent Jurisdiction for or with a view to the winding up of that or another Relevant Person or the appointment of a provisional liquidator or administrator in respect of that or another Relevant Person, or that or another Relevant Person ceasing or suspending business operations or payments to creditors, save that this paragraph does not apply to a fully solvent winding up of a Relevant Person other than the Borrower or a Guarantor which is, or is to be, effected for the purposes of an amalgamation or reconstruction previously approved by the Agent and effected not later than three months after the commencement of the winding up; or
- (viii) an administration notice is given or filed, an application or petition to a court is made or presented or any other step is taken by a creditor of a Relevant Person (other than a holder of Security Interests which together relate to all or substantially all of the assets of a Relevant Person) for the winding up of a Relevant Person or the appointment of a provisional liquidator or administrator in respect of a Relevant Person in any Pertinent Jurisdiction, unless the proposed winding up, appointment of a provisional liquidator or administration is being contested in good faith, on substantial grounds and not with a view to some other insolvency law procedure being implemented instead and either (a) the application or petition is dismissed or withdrawn within 30 days of being made or presented, or (b) within 30 days of the administration notice being given or filed, or the other relevant steps being taken, other action is taken which will ensure that there be no administration and (in both cases (a) or (b)) the Relevant Person will continue to carry on business in the ordinary way and without being the subject of any actual, interim or pending insolvency law procedure; or
- (ix) a Relevant Person or its directors take any steps (whether by making or presenting an application or petition to a court, or submitting or presenting a document setting out a proposal or proposed terms, or otherwise) with a view to obtaining, in relation to that or another Relevant Person, any form of moratorium, suspension or deferral of payments, reorganisation of debt (or certain debt or arrangement with all or a substantial proportion (by number or value) of creditors or of any class of them or any such moratorium, suspension or deferral of payments, reorganisation or arrangement is effected by court order, by the filing of documents with a court, by means of a contract or in any other way at all; or
- (x) any meeting of the members or directors, or of any committee of the board or senior management, of a Relevant Person is held or summoned for the purpose of considering a resolution or proposal to authorise or take any action of a type described in paragraphs (iv) to (ix) or a step preparatory to such action, or (with or without such a meeting) the members, directors or such a committee resolve or agree that such an action or step should be taken or should be taken if certain conditions materialise or fail to materialise; or

- (xi) in a Pertinent Jurisdiction other than England, any event occurs, any proceedings are opened or commenced or any step is taken which, in the opinion of the Agent is similar to any of the foregoing; or
- (h) any Security Party is in breach of or fails to observe any law, requirement, measure or procedure implemented to combat “money laundering” as defined in Article 1 of the Directive 2015/849/EC of the Council of the European Communities; or
- (i) the Borrower or any Security Party ceases or suspends carrying on its business or a part of its business which, in the opinion of the Majority Lenders, is material in the context of this Agreement or the other Finance Documents; or
- (j) it becomes unlawful or impossible:
 - (i) for the Borrower or any Security Party to discharge any liability under a Finance Document or to comply with any other obligation which the Majority Lenders consider material under a Finance Document; or
 - (ii) for the Agent, the Security Trustee or the Lenders to exercise or enforce any right under, or to enforce any Security Interest created by, a Finance Document; or
- (k) any consent necessary to enable a Guarantor to own, operate or charter its Ship or to enable the Borrower or any Security Party to comply with any provision which the Majority Lenders consider material of a Finance Document, the SPA or the Management Agreement (as applicable) is not granted, expires without being renewed, is revoked or becomes liable to revocation or any condition of such a consent is not fulfilled; or
- (l) after the date of this Agreement and without their prior consent a change has occurred in the legal or beneficial ownership of any of the shares in a Guarantor; or
- (m) any provision which the Majority Lenders acting reasonably consider material of a Finance Document proves to have been or becomes invalid or unenforceable, or a Security Interest created by a Finance Document proves to have been or becomes invalid or unenforceable or such a Security Interest proves to have ranked after, or loses its priority to, another Security Interest or any other third party claim; or
- (n) the security constituted by a Finance Document is in any way imperilled or in jeopardy and if, in the opinion of the Majority Lenders, capable of remedy, such event or circumstance continues unremedied 14 days after written notice from the Agent to the Borrower or relevant Security Party requesting action to remedy the same; or
- (o) any other event occurs or any other circumstances arise or develop including, without limitation:
 - (i) a change in the financial position, state of affairs or prospects of any Relevant Person; or
 - (ii) any accident or other event involving any Ship or another vessel owned, chartered or operated by a Relevant Person; or
 - (iii) any litigation or proceedings are commenced or threatened against a Relevant Person,

in the light of which the Majority Lenders reasonably consider that:

- (iv) there is a significant risk that the Borrower or any Security Party is, or will later become, unable to discharge its liabilities under the Finance Documents as they fall due; or
- (v) such event represents a material adverse change to the business of the Borrower or such Security Party.

19.2 Actions following an Event of Default.

On, or at any time after, the occurrence of an Event of Default:

- (a) the Agent may, and if so instructed by the Majority Lenders, the Agent shall:
 - (i) serve on the Borrower a notice stating that all or part of the Commitments and of the other obligations of each Lender to the Borrower under this Agreement are cancelled; and/or
 - (ii) serve on the Borrower a notice stating that all or part of the Loan together with accrued interest and all other amounts accrued or owing under this Agreement are immediately due and payable or are due and payable on demand; and/or
 - (iii) take any other action which, as a result of the Event of Default or any notice served under paragraph (i) or (ii), the Agent and/or the Lenders are entitled to take under any Finance Document or any applicable law; and/or
- (b) the Security Trustee may, by notice to the Borrower, exercise any or all of its rights, remedies, powers or discretions under the Finance Documents.

19.3 Termination of Commitments. On the service of a notice under Clause 19.2(a)(i) (*Actions following an Event of Default*), the Commitments and all other obligations of each Lender to the Borrower under this Agreement shall be cancelled.

19.4 Acceleration of liabilities. On the service of a notice under Clause 19.2(a)(ii) (*Actions following an Event of Default*), the Loan, all accrued interest and all other amounts accrued or owing from the Borrower or any Security Party under this Agreement and every other Finance Document shall become immediately due and payable or, as the case may be, payable on demand.

19.5 Multiple notices; action without notice. The Agent may serve notices under Clause 19.2(a)(i) (*Actions following an Event of Default*), or 19.2(a)(ii) simultaneously or on different dates and it and/or the Security Trustee may take any action referred to in Clause 19.2 (*Actions following an Event of Default*), if no such notice is served or simultaneously with or at any time after the service of both or either of such notices.

19.6 Notification of Creditor Parties and Security Parties. The Agent shall send to each Creditor Party and each Security Party a copy or the text of any notice which the Agent serves on the Borrower under Clause 19.2 (*Actions following an Event of Default*); but the notice shall become effective when it is served on the Borrower, and no failure or delay by the Agent to send a copy or the text of the notice to any other person shall invalidate the notice or provide the Borrower or any Security Party with any form of claim or defence.

19.7 Lenders' rights unimpaired. Nothing in this Clause shall be taken to impair or restrict the exercise of any right given to individual Lenders under a Finance Document or the general law; and, in particular, this Clause is without prejudice to Clause 3.1 (*Interests several*).

- 19.8 Exclusion of Creditor Party liability.** No Creditor Party, and no receiver or manager appointed by the Security Trustee, shall have any liability to the Borrower or a Security Party:
- (a) for any loss caused by an exercise of rights under, or enforcement of a Security Interest created by, a Finance Document or by any failure or delay to exercise such a right or to enforce such a Security Interest; or
 - (b) as mortgagee in possession or otherwise, for any income or principal amount which might have been produced by or realised from any asset comprised in such a Security Interest or for any reduction (however caused) in the value of such an asset;
- except that this does not exempt a Creditor Party or a receiver or manager from liability for losses shown to have been directly and mainly caused by the dishonesty or the wilful misconduct of such Creditor Party's own officers and employees or (as the case may be) such receiver's or manager's own partners or employees.
- 19.9 Relevant Persons.** In this Clause 19 a "**Relevant Person**" means the Borrower, a Guarantor and any other Security Party (other than the Third Party Manager and an Approved Manager that is not a Subsidiary of the Borrower) and any of their Subsidiaries.
- 19.10 Interpretation.** In Clause 19.119.1(f) (*Events of Default*) references to an event of default or a termination event include any event, howsoever described, which is similar to an event of default in a facility agreement or a termination event in a finance lease; and in Clause 19.1(g) (*Events of Default*) "**petition**" includes an application.
- 20 EXPENSES**
- 20.1 Upfront fee.** The Borrower shall pay to the Agent for the account of the Lenders pro rata in accordance with their Commitments, on the Drawdown Date, a non-refundable upfront fee of \$150,000.
- 20.2 Costs of negotiation, preparation etc.** The Borrower shall pay to the Agent on its demand the amount of all expenses incurred by the Agent or the Security Trustee in connection with the negotiation, preparation, execution or registration of any Finance Document or any related document or with any transaction contemplated by a Finance Document or a related document (including without limitation, any travel expenses).
- 20.3 Costs of variations, amendments, enforcement etc.** The Borrower shall pay to the Agent, on the Agent's demand, for the account of the Creditor Party concerned the amount of all expenses incurred by a Creditor Party in connection with:
- (a) any amendment or supplement to a Finance Document, or any proposal for such an amendment to be made;
 - (b) any consent or waiver by the Lenders, the Majority Lenders or the Creditor Party concerned under or in connection with a Finance Document, or any request for such a consent or waiver;
 - (c) the valuation of any security provided or offered under Clause 15 (*Security Cover*) or any other matter relating to such security; or
 - (d) any step taken by the Creditor Party concerned with a view to the protection, exercise or enforcement of any right or Security Interest created by a Finance Document or for any similar purpose (including without limitation any litigation cost).

There shall be recoverable under paragraph (d) the full amount of all legal expenses, whether or not such as would be allowed under rules of court or any taxation or other procedure carried out under such rules.

20.4 Documentary taxes. The Borrower shall promptly pay any tax payable on or by reference to any Finance Document, and shall, on the Agent's demand, fully indemnify each Creditor Party against any claims, expenses, liabilities and losses resulting from any failure or delay by the Borrower to pay such a tax.

20.5 Certification of amounts. A notice which is signed by 2 officers of a Creditor Party, which states that a specified amount, or aggregate amount, is due to that Creditor Party under this Clause 20 and which indicates (without necessarily specifying a detailed breakdown) the matters in respect of which the amount, or aggregate amount, is due shall be prima facie evidence that the amount, or aggregate amount, is due.

21 INDEMNITIES

21.1 Indemnities regarding borrowing and repayment of Loan. The Borrower shall fully indemnify each Creditor Party on the Agent's demand and the Security Trustee on its demand in respect of all claims, expenses, liabilities and losses which are made or brought against or incurred by that Creditor Party, or which that Creditor Party reasonably and with due diligence estimates that it will incur, as a result of or in connection with:

- (a) the Loan not being borrowed on the date specified in the Drawdown Notice for any reason other than a default by the Lender claiming the indemnity;
- (b) the receipt or recovery of all or any part of the Loan or an overdue sum otherwise than on the last day of an Interest Period or other relevant period;
- (c) any failure (for whatever reason) by the Borrower to make payment of any amount due under a Finance Document on the due date or, if so payable, on demand (after giving credit for any default interest paid by the Borrower on the amount concerned under Clause 7 (*Default Interest*));
- (d) the occurrence and/or continuance of an Event of Default or a Potential Event of Default and/or the acceleration of repayment of the Loan or any part of it under Clause 19 (*Events of Default*); and
- (e) any tax (other than tax on its overall net income) for which a Creditor Party is liable in connection with any amount paid or payable to that Creditor Party (whether for its own account or otherwise) under any Finance Document.

21.2 Breakage costs. Without limiting its generality, Clause 21.1 (*Indemnities regarding borrowing and repayment of Loan*) covers any claim, expense, liability or loss, including a loss of a prospective profit, incurred by a Lender:

- (a) in liquidating or employing deposits from third parties acquired or arranged to fund or maintain all or any part of its Contribution and/or any overdue amount (or an aggregate amount which includes its Contribution or any overdue amount); and
- (b) in terminating, or otherwise in connection with, any interest and/or currency swap or any other transaction entered into (whether with another legal entity or with another office or department of the Lender concerned) to hedge any exposure arising under this Agreement or that part which the Lender concerned determines is fairly attributable to this Agreement of the amount of the liabilities, expenses or losses (including losses of prospective profits) incurred by it in terminating, or otherwise in connection with, a number of transactions of which this Agreement is one.

21.3 Miscellaneous indemnities. The Borrower shall fully indemnify each Creditor Party severally on their respective demands in respect of all claims, expenses, liabilities and losses which may be made or brought against or incurred by a Creditor Party, in any country, as a result of or in connection with:

- (a) any action taken, or omitted or neglected to be taken, under or in connection with any Finance Document by the Agent, the Security Trustee or any other Creditor Party or by any receiver appointed under a Finance Document; or
- (b) any other Pertinent Matter;

other than claims, expenses, liabilities and losses which are shown to have been directly and mainly caused by the dishonesty or wilful misconduct of the officers or employees of the Creditor Party concerned.

Without prejudice to its generality, this Clause 21.3 covers any claims, expenses, liabilities and losses which arise, or are asserted, under or in connection with any law relating to safety at sea, the ISM Code, the ISPS Code, the MARPOL Protocol or any Environmental Law.

21.4 Currency indemnity. If any sum due from the Borrower or any Security Party to a Creditor Party under a Finance Document or under any order or judgment relating to a Finance Document has to be converted from the currency in which the Finance Document provided for the sum to be paid (the “**Contractual Currency**”) into another currency (the “**Payment Currency**”) for the purpose of:

- (a) making or lodging any claim or proof against the Borrower or any Security Party, whether in its liquidation, any arrangement involving it or otherwise; or
- (b) obtaining an order or judgment from any court or other tribunal; or
- (c) enforcing any such order or judgment;

the Borrower shall indemnify the Creditor Party concerned against the loss arising when the amount of the payment actually received by that Creditor Party is converted at the available rate of exchange into the Contractual Currency.

In this Clause 21.4 the “**available rate of exchange**” means the rate at which the Creditor Party concerned is able at the opening of business (Rotterdam time) on the Business Day after it receives the sum concerned to purchase the Contractual Currency with the Payment Currency.

This Clause 21.4 creates a separate liability of the Borrower which is distinct from their other liabilities under the Finance Documents and which shall not be merged in any judgment or order relating to those other liabilities.

21.5 Certification of amounts. A notice which is signed by 2 officers of a Creditor Party, which states that a specified amount, or aggregate amount, is due to that Creditor Party under this Clause 21 and which indicates (without necessarily specifying a detailed breakdown) the matters in respect of which the amount, or aggregate amount, is due shall be prima facie evidence that the amount, or aggregate amount, is due.

21.6 Sums deemed due to a Lender. For the purposes of this Clause 21, a sum payable by the Borrower to the Agent or the Security Trustee for distribution to a Lender shall be treated as a sum due to that Lender.

22 NO SET-OFF OR TAX DEDUCTION

22.1 No deductions. All amounts due from the Borrower under a Finance Document shall be paid:

- (a) without any form of set-off, cross-claim or condition; and
- (b) free and clear of any tax deduction except a tax deduction which the Borrower is required by law to make.

22.2 Grossing-up for taxes. If the Borrower is required by law to make a tax deduction from any payment (other than a FATCA Deduction):

- (a) the Borrower shall notify the Agent as soon as it becomes aware of the requirement;
- (b) the Borrower shall pay the tax deducted to the appropriate taxation authority promptly, and in any event before any fine or penalty arises;
- (c) the amount due in respect of the payment shall be increased by the amount necessary to ensure that each Creditor Party receives and retains (free from any liability relating to the tax deduction) a net amount which, after the tax deduction, is equal to the full amount which it would otherwise have received.

22.3 Evidence of payment of taxes. Within 1 month after making any tax deduction, the Borrower concerned shall deliver to the Agent documentary evidence satisfactory to the Agent that the tax had been paid to the appropriate taxation authority.

22.4 Exclusion of tax on overall net income. In this Clause 22 “**tax deduction**” means any deduction or withholding for or on account of any present or future tax except tax on a Creditor Party’s overall net income.

23 ILLEGALITY, ETC

23.1 Illegality. This Clause 23 applies if a Lender (the “**Notifying Lender**”) notifies the Agent that it has become, or will with effect from a specified date, become:

- (a) unlawful or prohibited as a result of the introduction of a new law, an amendment to an existing law or a change in the manner in which an existing law is or will be interpreted or applied; or
- (b) contrary to, or inconsistent with, any regulation,

for the Notifying Lender to maintain or give effect to any of its obligations under this Agreement in the manner contemplated by this Agreement.

23.2 Notification of illegality. The Agent shall promptly notify the Borrower, the Security Parties, and each of the Creditor Parties of the notice under Clause 23.1 (*Illegality*) which the Agent receives from the Notifying Lender.

23.3 Prepayment; termination of Commitment. On the Agent notifying the Borrower under Clause 23.2 (*Notification of illegality*), the Notifying Lender’s Commitment shall terminate; and thereupon or, if later, on the date specified in the Notifying Lender’s notice under Clause 23.1 (*Illegality*) as the date on which the notified event would become effective the Borrower shall prepay the Notifying Lender’s Contribution in accordance with Clause 8 (*Repayment and Prepayment*).

23.4 Mitigation. If circumstances arise which would result in a notification under Clause 23.1 (*Illegality*) then, without in any way limiting the rights of the Notifying Lender under Clause 23.3 (*Prepayment, termination of Commitment*), the Notifying Lender shall use reasonable endeavours to transfer its obligations, liabilities and rights under this Agreement and the Finance Documents to another office or financial institution not affected by the circumstances but the Notifying Lender shall not be under any obligation to take any such action if, in its opinion, to do would or might:

- (a) have an adverse effect on its business, operations or financial condition; or
- (b) involve it in any activity which is unlawful or prohibited or any activity that is contrary to, or inconsistent with, any regulation; or
- (c) involve it in any expense (unless indemnified to its satisfaction) or tax disadvantage.

24 INCREASED COSTS

24.1 Increased costs. This Clause 24 applies if a Lender (the “**Notifying Lender**”) notifies the Agent that the Notifying Lender considers that as a result of:

- (a) the introduction or alteration after the date of this Agreement of a law or an alteration after the date of this Agreement in the manner in which a law is interpreted or applied (disregarding any effect which relates to the application to payments under this Agreement of a tax on the Lender’s overall net income); or
- (b) complying with any regulation (including any which relates to capital adequacy or liquidity controls or which affects the manner in which the Notifying Lender allocates capital resources to its obligations under this Agreement) which is introduced, or altered, or the interpretation or application of which is altered, after the date of this Agreement,

the Notifying Lender (or a parent company of it) has incurred or will incur an “**increased cost**”.

24.2 Meaning of “increase cost”. In this Clause 24, “**increased cost**” means, in relation to a Notifying Lender:

- (a) an additional or increased cost incurred as a result of, or in connection with, the Notifying Lender having entered into, or being a party to, this Agreement or a Transfer Certificate, of funding or maintaining its Commitment or Contribution or performing its obligations under this Agreement, or of having outstanding all or any part of its Contribution or other unpaid sums;
- (b) a reduction in the amount of any payment to the Notifying Lender under this Agreement or in the effective return which such a payment represents to the Notifying Lender or on its capital;
- (c) an additional or increased cost of funding all or maintaining all or any of the advances comprised in a class of advances formed by or including the Notifying Lender’s Contribution or (as the case may require) the proportion of that cost attributable to the Contribution; or
- (d) an additional or increased cost of funding all or maintaining all or any part the Notifying Lender’s Contributions or other unpaid sums or (as the case may require) the proportion of that cost attributable to the Contributions or other unpaid sums; or

- (e) a liability to make a payment, or a return foregone, which is calculated by reference to any amounts received or receivable by the Notifying Lender under this Agreement;

but not an item attributable to a change in the rate of tax on the overall net income of the Notifying Lender (or a parent company of it) or an item covered by the indemnity for tax in Clause 21.1 (*Indemnities regarding borrowing any repayment of Loan*) or by Clause 22 (*No Set-Off or Tax Deduction*).

For the purposes of this Clause 24.2 the Notifying Lender may in good faith allocate or spread costs and/or losses among its assets and liabilities (or any class of its assets and liabilities) on such basis as it considers appropriate.

24.3 Notification to Borrower of claim for increased costs. The Agent shall promptly notify the Borrower and the Security Parties of the notice which the Agent received from the Notifying Lender under Clause 24.1 (*Increased Costs*).

24.4 Payment of increased costs. The Borrower shall pay to the Agent, on the Agent's demand, for the account of the Notifying Lender the amounts which the Agent from time to time notifies the Borrower that the Notifying Lender has specified to be necessary to compensate the Notifying Lender for the increased cost.

24.5 Notice of prepayment; cancellation. If the Borrower is not willing to continue to compensate the Notifying Lender for the increased cost under Clause 24.4 (*Payment of increased costs*), the Borrower may give the Agent not less than 14 days' notice of their intention to:

- (a) prepay the Notifying Lender's Contribution at the end of an Interest Period; and/or
- (b) cancel the Notifying Lender's Available Commitment.

24.6 Prepayment; termination of Commitment. A notice under Clause 24.5 (*Notice of prepayment; cancellation*) shall be irrevocable; the Agent shall promptly notify the Notifying Lender of the Borrower's notice of intended prepayment and/or cancellation; and:

- (a) on the date on which the Agent serves that notice, the Available Commitment of the Notifying Lender shall be cancelled;
- (b) on the date specified in its notice of intended prepayment, the Borrower shall prepay (without premium or penalty) the Notifying Lender's Contribution, together with accrued interest thereon at the applicable rate plus the Margin.

25 SET-OFF

25.1 Application of credit balances. Each Creditor Party may, following the occurrence of an Event of Default which is continuing, without prior notice:

- (a) apply any balance (whether or not then due) which at any time stands to the credit of any account in the name of the Borrower at any office in any country of that Creditor Party in or towards satisfaction of any sum then due from the Borrower to that Creditor Party under any of the Finance Documents; and
- (b) for that purpose:
 - (i) break, or alter the maturity of, all or any part of a deposit of the Borrower;

- (ii) convert or translate all or any part of a deposit or other credit balance into Dollars; and
- (iii) enter into any other transaction or make any entry with regard to the credit balance which the Creditor Party concerned considers appropriate.

25.2 Existing rights unaffected. No Creditor Party shall be obliged to exercise any of its rights under Clause 25.1 (*Application of credit balances*); and those rights shall be without prejudice and in addition to any right of set-off, combination of accounts, charge, lien or other right or remedy to which a Creditor Party is entitled (whether under the general law or any document).

25.3 Sums deemed due to a Creditor Party. For the purposes of this Clause 25, a sum payable by the Borrower to the Agent or the Security Trustee for distribution to, or for the account of, any Creditor Party shall be treated as a sum due to that Creditor Party; and each Creditor Party's proportion of a sum so payable for distribution to, or for the account of, the Creditor Parties shall be treated as a sum due to such Creditor Party.

25.4 No Security Interest. This Clause 25 gives the Creditor Parties a contractual right of set-off only, and does not create any equitable charge or other Security Interest over any credit balance of the Borrower.

26 TRANSFERS AND CHANGES IN LENDING AND BOOKING OFFICES

26.1 Transfer by Borrower. The Borrower may not, without the consent of the Agent, given on the instructions of all the Lenders transfer any of its rights, liabilities or obligations under any Finance Document.

26.2 Transfer by a Lender. Subject to Clause 26.4 (*Effective Date of Transfer Certificate*), a Lender (the "**Transferor Lender**") may, (i) if such transfer is to any bank or financial institution affiliated to a Lender or if such transfer is made while an Event of Default is continuing, without the consent of the Borrower or (ii) if such transfer is to any arm's length bank or financial institution, with the prior consent of the Borrower, (such consent not to be unreasonably withheld or delayed) at any time, cause:

- (a) its rights in respect of all or part of its Contribution; or
- (b) its obligations in respect of all or part of its Commitment; or
- (c) a combination of (a) and (b);

to be (in the case of its rights) transferred to, or (in the case of its obligations) assumed by, another bank or financial institution (a "**Transferee Lender**") by delivering to the Agent a completed certificate in the form set out in Schedule 4 with any modifications approved or required by the Agent (a "**Transfer Certificate**") executed by the Transferor Lender and the Transferee Lender.

However any rights and obligations of the Transferor Lender in its capacity as Agent or Security Trustee will have to be dealt with separately in accordance with the Agency and Trust Deed.

26.3 Transfer Certificate, delivery and notification. As soon as reasonably practicable after a Transfer Certificate is delivered to the Agent, it shall (unless it has reason to believe that the Transfer Certificate may be defective):

- (a) sign the Transfer Certificate on behalf of itself, the Borrower, the Security Parties and each of the Creditor Parties;

- (b) on behalf of the Transferee Lender, send to the Borrower and each Security Party letters or faxes notifying them of the Transfer Certificate and attaching a copy of it;
 - (c) send to the Transferee Lender copies of the letters or faxes sent under paragraph (b) above.
- 26.4 Effective Date of Transfer Certificate.** A Transfer Certificate becomes effective on the date, if any, specified in the Transfer Certificate as its effective date, **Provided that** it is signed by the Agent under Clause 26.3 (*Transfer Certificate, delivery and notification*) on or before that date.
- 26.5 No transfer without Transfer Certificate.** No assignment or transfer of any right or obligation of a Lender under any Finance Document is binding on, or effective in relation to, the Borrower, any Security Party, the Agent or the Security Trustee unless it is effected, evidenced or perfected by a Transfer Certificate.
- 26.6 Lender re-organisation; waiver of Transfer Certificate.** However, if a Lender enters into any merger, de-merger or other reorganisation as a result of which all its rights or obligations vest in another person (the “**successor**”), the Agent may, if it sees fit, by notice to the successor and the Borrower and the Security Trustee waive the need for the execution and delivery of a Transfer Certificate; and, upon service of the Agent’s notice, the successor shall become a Lender with the same Commitment and Contribution as were held by the predecessor Lender.
- 26.7 Effect of Transfer Certificate.** A Transfer Certificate takes effect in accordance with English law as follows:
- (a) to the extent specified in the Transfer Certificate, all rights and interests (present, future or contingent) which the Transferor Lender has under or by virtue of the Finance Documents are assigned to the Transferee Lender absolutely, free of any defects in the Transferor Lender’s title and of any rights or equities which the Borrower or any Security Party had against the Transferor Lender;
 - (b) the Transferor Lender’s Commitment is discharged to the extent specified in the Transfer Certificate;
 - (c) the Transferee Lender becomes a Lender with the Contribution previously held by the Transferor Lender and a Commitment of an amount specified in the Transfer Certificate;
 - (d) the Transferee Lender becomes bound by all the provisions of the Finance Documents which are applicable to the Lenders generally, including those about pro-rata sharing and the exclusion of liability on the part of, and the indemnification of, the Agent and the Security Trustee and, to the extent that the Transferee Lender becomes bound by those provisions (other than those relating to exclusion of liability), the Transferor Lender ceases to be bound by them;
 - (e) any part of the Loan which the Transferee Lender advances after the Transfer Certificate’s effective date ranks in point of priority and security in the same way as it would have ranked had it been advanced by the Transferor Lender, assuming that any defects in the transferor’s title and any rights or equities of the Borrower or any Security Party against the Transferor Lender had not existed;

- (f) the Transferee Lender becomes entitled to all the rights under the Finance Documents which are applicable to the Lenders generally, including but not limited to those relating to the Majority Lenders and those under Clause 5.7 (*Market disruption*) and Clause 20 (*Expenses*), and to the extent that the Transferee Lender becomes entitled to such rights, the Transferor Lender ceases to be entitled to them; and
- (g) in respect of any breach of a warranty, undertaking, condition or other provision of a Finance Document or any misrepresentation made in or in connection with a Finance Document, the Transferee Lender shall be entitled to recover damages by reference to the loss incurred by it as a result of the breach or misrepresentation, irrespective of whether the original Lender would have incurred a loss of that kind or amount.

The rights and equities of the Borrower or any Security Party referred to above include, but are not limited to, any right of set off and any other kind of cross-claim.

- 26.8 Maintenance of register of Lenders.** During the Security Period the Agent shall maintain a register in which it shall record the name, Commitment, Contribution and administrative details (including the lending office) from time to time of each Lender holding a Transfer Certificate and the effective date (in accordance with Clause 26.4 (*Effective Date of Transfer Certificate*)) of the Transfer Certificate; and the Agent shall make the register available for inspection by any Creditor Party and the Borrower during normal banking hours, subject to receiving at least 3 Business Days prior notice.
- 26.9 Reliance on register of Lenders.** The entries on that register shall, in the absence of manifest error, be conclusive in determining the identities of the Lenders and the amounts of their Commitments and Contributions and the effective dates of Transfer Certificates and may be relied upon by the Agent and the other parties to the Finance Documents for all purposes relating to the Finance Documents.
- 26.10 Authorisation of Agent to sign Transfer Certificates.** The Borrower and each Creditor Party irrevocably authorise the Agent to sign Transfer Certificates on its behalf.
- 26.11 Registration fee.** In respect of any Transfer Certificate, the Agent shall be entitled to recover a registration fee of \$1,000 from the Transferor Lender or (at the Agent's option) the Transferee Lender.
- 26.12 Sub-participation; subrogation assignment.** A Lender may sub-participate all or any part of its rights and/or obligations under or in connection with the Finance Documents without the consent of, or any notice to, the Borrower, any Security Party, or the other Creditor Parties; and the Lenders may assign, in any manner and terms agreed by the Majority Lenders, the Agent and the Security Trustee, all or any part of those rights to an insurer or surety who has become subrogated to them.
- 26.13 Disclosure of information.** A Lender may disclose to a potential Transferee Lender or sub-participant any information which the Lender has received in relation to the Borrower, any Security Party or their affairs under or in connection with any Finance Document, unless the information is clearly of a confidential nature.

Without prejudice to the above, the Borrower irrevocably authorises each Creditor Party to give, divulge and reveal from time to time information and details relating to its accounts, the Finance Documents and the facilities granted pursuant thereto to any authorities, each Creditor Party's head office, branches and affiliates, any other parties to the Finance Documents and any person regarding any funding, operational arrangement or other transaction in relation thereto, including without limitation, for purposes in connection with any enforcement or assignment or transfer of any of the Creditor Parties' rights and obligations. This authorisation shall survive and continue in full force and effect for the benefit of each Creditor Party notwithstanding the repayment, cancellation or termination of the Loan or any part thereof and/or the termination of one or more types of banker-customer relationships between any Security Party and the relevant Creditor Party.

26.14 Change of lending or booking office. A Lender may, at its own cost, change its lending or booking office, as the case may be, by giving notice to the Agent and the change shall become effective on the later of:

- (a) the date on which the Agent receives the notice; and
- (b) the date, if any, specified in the notice as the date on which the change will come into effect,

provided that the Borrower shall bear no additional obligations as a result of such change in lending office.

On receiving such a notice, the Agent shall notify the Borrower and the Security Trustee; and, until the Agent receives such a notice, it shall be entitled to assume that a Lender is acting through the lending or booking office, as the case may be, of which the Agent last had notice.

26.15 Replacement of Reference Bank. If any Reference Bank ceases to be a Lender or is unable on a continuing basis to supply quotations for the purposes of Clause 5 (*Interest*) then, unless the Borrower, the Agent and the Majority Lenders otherwise agree, the Agent, acting on the instructions of the Majority Lenders, and after consulting the Borrower, shall appoint another bank (whether or not a Lender) to be a replacement Reference Bank; and, when that appointment comes into effect, the first-mentioned Reference Bank's appointment shall cease to be effective.

26.16 Confidential Information Each Creditor Party agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 26.17 (*Disclosure of Confidential Information*) and Clause 26.18 (*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.

26.17 Disclosure of Confidential Information In this Clause, "**Representative**" means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian.

Any Creditor Party may disclose:

- (a) to any of its Affiliates and any of its or their officers, directors, employees, professional advisers, insurers, reinsurers and insurance brokers, auditors, partners and Representatives such Confidential Information as that Creditor Party shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph 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 and 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 Security Parties and to any of that person's Affiliates, Representatives and professional advisers;
- (iii) appointed by any Creditor Party or by a person to whom sub-paragraph (a) or (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 (a) or (b) above;
- (v) to whom information is required or requested to be disclosed by (i) any governmental, banking, taxation or other regulatory authority or similar body, or the rules of any relevant stock exchange; or (ii) pursuant to any applicable law or regulation; or (iii) by any court of competent jurisdiction; and (iv) in connection with and for the purposes of any litigation, arbitration or other proceedings or dispute.
- (vi) to whom or for whose benefit that Creditor Party charges, assigns or otherwise creates a Security Interest (or may do so);
- (vii) who is a Party; or
- (viii) with the consent of the Borrower;

in each case, such Confidential Information as that Creditor Party shall consider appropriate if:

- (1) in relation to sub-paragraphs (i), (ii) and (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 sub-paragraph (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;

- (c) to any person appointed by that Creditor Party or by a person to whom sub-paragraph (a) or (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 sub Clause 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 Creditor 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 Security Parties.

26.18 Disclosure to numbering service providers

- (a) Notwithstanding any other term of any Finance Document or any other agreement between the Parties to the contrary (whether express or implied) any Creditor Party may disclose to any national or international numbering service provider appointed by that Creditor Party to provide identification numbering services in respect of this Agreement, the Facility and/or one or more Security Parties the following information:

- (i) names of Security Parties;
- (ii) country of domicile of Security Parties;
- (iii) place of incorporation or formation (as the case may be) of Security Parties;
- (iv) date and governing law of this Agreement;
- (v) the name of the Agent;
- (vi) date of each amendment and restatement of this Agreement;
- (vii) amount of the Loan and the Total Commitments;
- (viii) currency of the Loan;
- (ix) type of Loan;
- (x) ranking of Loan;
- (xi) final Repayment Date;
- (xii) changes to any of the information previously supplied pursuant to paragraphs (i) to (xi) above; and
- (xiii) such other information agreed between such Creditor Party and the Borrower,

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 Loan and/or one or more Security Parties 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 Security Party represents that none of the information set out in paragraphs (a) to (m) of Clause 26.18(a) above is, nor will at any time be, unpublished price-sensitive information.
- (d) The Agent shall notify the Borrower and the other Creditor 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 Security Parties; and

- (ii) the number or, as the case may be, numbers assigned to this Agreement, the Facility and/or one or more Security Parties by such numbering service provider.

26.19 Disclosure to administration/settlement services providers. Notwithstanding any other term of any Finance Document or any other agreement between the Parties to the contrary (whether express or implied), any Creditor Party may disclose to any person appointed by:

- (a) that Creditor Party;
- (b) a person to (or through) whom that Creditor Party 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 Trustee under this Agreement; and/or
- (c) a person with (or through) whom that Creditor Party enters into (or may potentially enter into) 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 Security Parties,

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 Clause 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 Services Providers or such other form of confidentiality undertaking agreed between the Borrower and the relevant Creditor Party.

26.20 Entire agreement Clauses 26.16 to 26.23 (inclusive) (*Confidentiality*) constitute the entire agreement between the Parties in relation to the obligations of the Creditor Parties under the Finance Documents regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

26.21 Inside information Each of the Creditor 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 Creditor Parties undertakes not to use any Confidential Information for any unlawful purpose.

26.22 Notification of disclosure Each of the Creditor 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 sub-paragraph (e) of Clause 26.17 (*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 Clauses 26.16 to 26.23 (inclusive) (*Confidentiality*).

- 26.23 Continuing obligations** The obligations in Clause 26.16 to 26.23 (inclusive) (*Confidentiality*) are continuing and, in particular, shall survive and remain binding on each Creditor Party for a period of twelve (12) months from the earlier of:
- (a) the date on which all amounts payable by the Security Parties 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 Creditor Party otherwise ceases to be a Creditor Party.
- 27 VARIATIONS AND WAIVERS**
- 27.1 Variations, waivers etc. by Majority Lenders.** Subject to Clause 27.2 (*Variations, waivers etc. requiring agreement of all Lenders*), a document shall be effective to vary, waive, suspend or limit any provision of a Finance Document, or any Creditor Party's rights or remedies under such a provision or the general law, only if the document is signed, or specifically agreed to by letter or fax, by the Borrower, by the Agent on behalf of the Majority Lenders, by the Agent and the Security Trustee in their own rights, and, if the document relates to a Finance Document to which a Security Party is party, by that Security Party.
- 27.2 Variations, waivers etc. requiring agreement of all Lenders.** However, as regards the following, Clause 27.1 (*Variations, waivers etc. by Majority Lenders*) applies as if the words "by the Agent on behalf of the Majority Lenders" were replaced by the words "by or on behalf of every Lender":
- (a) a change in the Margin or in the definition of LIBOR;
 - (b) a change to the date for, the amount of, any payment of principal, interest, fees, or other sum payable under this Agreement;
 - (c) a change to any Lender's Commitment;
 - (d) an extension of Availability Period;
 - (e) a change to the definition of "**Majority Lenders**" or "**Finance Documents**";
 - (f) a change to the preamble or to Clause 2 (*Facility*), 3 (*Position of the Lenders*), 4 (*Drawdown*), 5.1 (*Payment of normal interest*), 10.23 (*Sanctions*), 11.23 (*Sanctions*), 17 (*Application of Receipts*), 18 (*Application of Earnings, Location of Accounts*) or 31 (*Law and Jurisdiction*);
 - (g) a change to this Clause 27;
 - (h) any release of, or material variation to, a Security Interest, guarantee, indemnity or subordination arrangement set out in a Finance Document; and
 - (i) any other change or matter as regards which this Agreement or another Finance Document expressly provides that each Lender's consent is required.

- 27.3 Exclusion of other or implied variations.** Except for a document which satisfies the requirements of Clauses 27.1 (*Variations, waivers etc. by Majority Lenders*) and 27.2 (*Variations, waivers etc. requiring agreement of all Lenders*), no document, and no act, course of conduct, failure or neglect to act, delay or acquiescence on the part of the Creditor Parties or any of them (or any person acting on behalf of any of them) shall result in the Creditor Parties or any of them (or any person acting on behalf of any of them) being taken to have varied, waived, suspended or limited, or being precluded (permanently or temporarily) from enforcing, relying on or exercising:

- (a) a provision of this Agreement or another Finance Document; or
- (b) an Event of Default; or
- (c) a breach by the Borrower or a Security Party of an obligation under a Finance Document or the general law; or
- (d) any right or remedy conferred by any Finance Document or by the general law;

and there shall not be implied into any Finance Document any term or condition requiring any such provision to be enforced, or such right or remedy to be exercised, within a certain or reasonable time.

27.4 Co-operation on potential restructuring of facilities. Provided the Lenders have provided their consent to the relevant tax enhancement structure (upon such terms as are acceptable to the Lenders), the Lenders will provide reasonable co-operation for such changes as are necessary (at the Borrower's costs) relating to such tax enhancement transaction.

28 NOTICES

28.1 General. Unless otherwise specifically provided, any notice under or in connection with any Finance Document shall be given by letter or fax or electronic message; and references in the Finance Documents to written notices, notices in writing and notices signed by particular persons shall be construed accordingly.

28.2 Addresses for communications. A notice shall be sent:

- (a) to the Borrower:

7 Avenue de Grande BretagneOffice 11B2
Monte Carlo, MC 98000 Monaco
Fax no: +377 97 98 21 41
- (b) to a Lender: At the address below its name in Schedule 1 or (as the case may require) in the relevant Transfer Certificate.
- (c) to the Agent and the Security Trustee Gustav Mahlerlaan 10,

1082 PP Amsterdam
The Netherlands
Attn: Global Transportation & Logistics
Fax no: +31 (0) 10 401 53 23

or to such other address as the relevant party may notify to the Agent or, if the relevant party is the Agent or the Security Trustee, the Borrower, the Lenders and the Security Parties.

- 28.3 Effective date of notices.** Subject to Clauses 28.4 (*Service outside business hours*) and 28.5 (*Illegible notices*):
- (a) a notice which is delivered personally or posted shall be deemed to be served, and shall take effect, at the time when it is delivered;
 - (b)
 - (c) a notice which is sent by fax or electronic message shall be deemed to be served, and shall take effect, 2 hours after its transmission is completed.
- 28.4 Service outside business hours.** However, if under Clause 28.3 (*Effective date of notices*) a notice would be deemed to be served:
- (a) on a day which is not a business day in the place of receipt; or
 - (b) on such a business day, but after 5 p.m. local time;
- the notice shall (subject to Clause 28.5 (*Illegible notices*)) be deemed to be served, and shall take effect, at 9 a.m. on the next day which is such a business day.
- 28.5 Illegible notices.** Clauses 28.3 (*Effective date of notices*) and 28.4 (*Service outside business hours*) do not apply if the recipient of a notice notifies the sender within 1 hour after the time at which the notice would otherwise be deemed to be served that the notice has been received in a form which is illegible in a material respect.
- 28.6 Valid notices.** A notice under or in connection with a Finance Document shall not be invalid by reason that its contents or the manner of serving it do not comply with the requirements of this Agreement or, where appropriate, any other Finance Document under which it is served if:
- (a) the failure to serve it in accordance with the requirements of this Agreement or other Finance Document, as the case may be, has not caused any party to suffer any significant loss or prejudice; or
 - (b) in the case of incorrect and/or incomplete contents, it should have been reasonably clear to the party on which the notice was served what the correct or missing particulars should have been.
- 28.7 English language.** Any notice under or in connection with a Finance Document shall be in English.
- 28.8 Meaning of “notice”.** In this Clause 28, “notice” includes any demand, consent, authorisation, approval, instruction, waiver or other communication.

29 PARALELL DEBT

29.1 Parallel Debt

Notwithstanding any other provision of the Finance Documents, the Borrower hereby irrevocably and unconditionally undertakes to pay to the Security Trustee, as creditor in its own right and not as representative of the other Creditor Parties, sums equal to and in the currency of each amount payable by the Borrower and any Security Party to any Creditor Party under any Finance Document as and when that amount falls due for payment under the relevant Finance Document or would have fallen due but for any discharge resulting from failure of another Creditor Party to take appropriate steps, in insolvency proceedings affecting that Borrower, to preserve its entitlement to be paid that amount (the “**Parallel Debt**”).

The Security Trustee shall have its own independent right to demand payment of the amounts payable by the Borrower under this Clause 29.1, irrespective of any discharge of the Borrower and/or any Security Party's obligation to pay those amounts to the other Creditor Parties resulting from failure by them to take appropriate steps, in insolvency proceedings affecting that Borrower and/or any Security Party, to preserve their entitlement to be paid those amounts.

Any amount due and payable by the Borrower to the Security Trustee under this Clause 29.1 shall be decreased to the extent that the other Creditor Parties have received (and are able to retain) payment in full of the corresponding amount under the other provisions of the Finance Documents and any amount due and payable by the Borrower and/or a Security Party to the other Creditor Parties under those provisions shall be decreased to the extent the Security Trustee has received (and is able to retain) payment in full of the corresponding amount under this Clause 29.1.

The Borrower and the Creditor Parties acknowledge that, in respect of the Parallel Debt, the Security Trustee acts in its own name and not as representative of the Creditor Parties or any of them.

30 SUPPLEMENTAL

30.1 Rights cumulative, non-exclusive. The rights and remedies which the Finance Documents give to each Creditor Party are:

- (a) cumulative;
- (b) may be exercised as often as appears expedient; and
- (c) shall not, unless a Finance Document explicitly and specifically states so, be taken to exclude or limit any right or remedy conferred by any law.

30.2 Severability of provisions. If any provision of a Finance Document is or subsequently becomes void, unenforceable or illegal, that shall not affect the validity, enforceability or legality of the other provisions of that Finance Document or of the provisions of any other Finance Document.

30.3 Counterparts. A Finance Document may be executed in any number of counterparts.

30.4 Third party rights. A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Agreement.

31 LAW AND JURISDICTION

31.1 English law. This Agreement shall be governed by, and construed in accordance with, English law.

31.2 Exclusive English jurisdiction. Subject to Clause 31.3 (*Choice of forum for the exclusive benefit of the Creditor Parties*), the courts of England shall have exclusive jurisdiction to settle any disputes which may arise out of or in connection with this Agreement.

31.3 Choice of forum for the exclusive benefit of the Creditor Parties. Clause 31.2 (*Exclusive English jurisdiction*) is for the exclusive benefit of the Creditor Parties, each of which reserves the right:

- (a) to commence proceedings in relation to any matter which arises out of or in connection with this Agreement in the courts of any country other than England and which have or claim jurisdiction to that matter; and
- (b) to commence such proceedings in the courts of any such country or countries concurrently with or in addition to proceedings in England or without commencing proceedings in England.

The Borrower shall not commence any proceedings in any country other than England in relation to a matter which arises out of or in connection with this Agreement.

31.4 Process agent. The Borrower irrevocably appoints Hill Dickinson LLP at present of Broadgate Tower, 20 Primrose Street, London EC2A 2EW, 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 are connected with this Agreement.

31.5 Creditor Party rights unaffected. Nothing in this Clause 31 (*Law and Jurisdiction*) shall exclude or limit any right which any Creditor Party may have (whether under the law of any country, an international convention or otherwise) with regard to the bringing of proceedings, the service of process, the recognition or enforcement of a judgment or any similar or related matter in any jurisdiction.

31.6 Meaning of “proceedings”. In this Clause 31, “**proceedings**” means proceedings of any kind, including an application for a provisional or protective measure.

THIS AGREEMENT has been entered into on the date stated at the beginning of this Agreement.

SIGNED by GEORGIOS PANAGAKIS
for and on behalf of
NAVIOS MARITIME PARTNERS L.P.
in the presence of:

)
)
)
)




PINELOPI KARAMADOUKI
Ince
Akti Miaouli 47-49
Piraeus 185 36 Greece

SIGNED by PANAGIOTIS FOKAS
And by STAVROULA MYLONA
for and on behalf of
ABN AMRO BANK N.V. as Agent and
Security Trustee
in the presence of:

)
)
)
)
)
)

/s/ P. Fokas
P. FOKAS

/s/ S. Mylona
S. MYLONA


PINELOPI KARAMADOUKI
Ince
Akti Miaouli 47-49
Piraeus 185 36 Greece

SIGNED by PANAGIOTIS FOKAS
And by STAVROULA MYLONA
for and on behalf of
ABN AMRO BANK N.V.
as a Lender
in the presence of:

)
)
)
)
)
)

/s/ P. Fokas
P. FOKAS

/s/ S. Mylona
S. MYLONA


PINELOPI KARAMADOUKI
Ince
Akti Miaouli 47-49
Piraeus 185 36 Greece

DATED 28 September 2020

**EMERY SHIPPING CORPORATION
AND
RONDINE MANAGEMENT CORP.
as Borrowers**

-and-

**CRÉDIT AGRICOLE CORPORATE
AND INVESTMENT BANK
as Lender**

-and-

**CRÉDIT AGRICOLE CORPORATE
AND INVESTMENT BANK
as Arranger, Agent, Account Bank
and Security Trustee**

**FACILITY AGREEMENT FOR
A TERM LOAN FACILITY
OF UP TO USD33,000,000**

Ince

PIRAEUS

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THIS AGREEMENT dated 28 September 2020 is made **BY** and **BETWEEN**:

- (1) **EMERY SHIPPING CORPORATION** and **RONDINE MANAGEMENT CORP.** as Borrowers;
- (2) **CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK** as Lenders; and
- (3) **CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK** as Arranger, Account Bank, Agent and Security Trustee.

NOW IT IS HEREBY AGREED AS FOLLOWS:

1 PURPOSE, DEFINITIONS, CONSTRUCTIONS & MAJORITY LENDERS

1.1 Purpose

This Agreement sets out the terms and conditions on which the Lenders agree to make available to the Borrowers a loan of up to thirty three million Dollars (USD33,000,000), subject to clause 2 of this Agreement, for the purpose of the Borrowers making the proceeds of the Loan available to the Shareholder, which the Shareholder will use to pay to the current shareholder of each Borrower the purchase price of the shares in the Borrowers.

1.2 Definitions

In this Agreement, unless the context otherwise requires:

“**Account Bank**” means Crédit Agricole Corporate and Investment Bank, acting through its office at 12, place des Etats-Unis, CS 70052, 92547 Montrouge Cedex, France, or such other bank as may be designated by the Agent as an Account Bank for the purposes of this Agreement;

“**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 and for this purpose “control” means the ownership of more than fifty per cent (50%) of the voting share capital (or equivalent rights of ownership) of such company or entity.

“**Agent**” means Crédit Agricole Corporate and Investment Bank, acting through its office at 12, place des Etats-Unis, CS 70052, 92547 Montrouge Cedex, France (or of such other address as may last have been notified to the other parties to this Agreement pursuant to clause 17.2.3) or such other person as may be appointed as agent by the Lenders pursuant to clause 16.13;

“**Anti-Corruption Laws**” means the UK Bribery Act 2010, the United States Foreign Corrupt Practices Act of 1977 (each as amended from time to time) and any similar legislation in other jurisdictions;

“**Approved Broker**” means each of Affinity (Shipping) LLP, Arrow Sale & Purchase (UK) Limited, Barry Rogliano Salles, Braemar ACM Valuations Limited, Clarkson Valuations Limited, E.A. Gibson Shipbrokers Ltd., Fearnleys A.S., Howe Robinson and Maersk Broker K/S, or such other reputable, independent and first class firm of shipbrokers specialising in the valuation of vessels of the relevant type appointed by the Lenders and agreed with the Borrowers;

“**Approved Insurance Brokers**” means such firm of insurance brokers, appointed by the Borrowers, as may from time to time be approved in writing by the Agent (which approval shall not be unreasonably withheld) for the purposes of this Agreement;

“**Arranger**” means Crédit Agricole Corporate and Investment Bank, acting through its office at 12, place des Etats-Unis, CS 70052, 92547 Montrouge Cedex, France (or of such other address as may last have been notified to the other parties to this Agreement pursuant to clause 17.2.3);

“**Article 55 BRRD**” means Articles 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investments firms

“**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 other 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;

“**Banking Day**” means a day on which dealings in deposits in USD are carried on in the London Interbank Eurocurrency Market and (other than Saturday or Sunday) on which banks are open for business in London, Piraeus, Paris and New York City (or any other relevant place of payment under clause 6);

“**Banks**” means, together, the Arranger, the Agent, the Security Trustee, the Account Bank, the Lenders and any Transferee Lenders;

“**Basel III**” means:

- (a) the following documents published by the Basel Committee on Banking Supervision relating to “Basel III” in December 2010:
 - (i) “Basel III: A global regulatory framework for more resilient banks and banking systems”; and
 - (ii) “Basel III: International framework for liquidity risk measurement, standards and monitoring”; and
 - (iii) “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, in each case including CRD IV and CRR and any follow-up agreement, guidance, standards or paper published by the Basel Committee on Banking Supervision relating to “Basel III”;

“**Basel IV**” means any amendment, replacement or refinement of Basel III known or to be known as “Basel IV”;

“**Borrowed Money**” means Indebtedness in respect of (i) money borrowed and debit balances at banks, (ii) any bond, note, loan stock, debenture or similar debt instrument, (iii) acceptance or documentary credit facilities, (iv) receivables sold or discounted (otherwise than on a non-recourse basis), (v) deferred payments for assets or services acquired, (vi) finance leases and hire purchase contracts, (vii) swaps, forward exchange contracts, futures and other derivatives, (viii) any other transaction (including without limitation forward sale or purchase agreements) having the commercial effect of a borrowing or of any of (ii) to (vii) above and (ix) guarantees in respect of Indebtedness of any person falling within any of (i) to (viii) above;

“**Borrower**” means each of Emery Shipping Corporation (“**Emery**”) and Rondine Management Corp. (“**Rondine**”), each having its registered office at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands, MH96960 and in the plural means both of them;

“**Break Costs**” means the aggregate amount of all losses, premiums, penalties, costs and expenses whatsoever certified by the Agent at any time and from time to time as having been incurred by the Lenders or any of them in maintaining or funding their Contributions or in liquidating or re-employing fixed deposits acquired to maintain the same as a result of either:

- (a) any repayment or prepayment of the Loan or any part thereof otherwise than (i) in accordance with clause 4.1 or (ii) on an Interest Payment Date whether on a voluntary or involuntary basis or otherwise howsoever; or
- (b) as a result of the Borrowers failing or being incapable of drawing the Loan after the Drawdown Notice has been given;

“**Casualty Amount**” means five hundred thousand Dollars (USD 500,000) (or the equivalent in any other currency);

“**Certified Copy**” means in relation to any document delivered or issued by or on behalf of any company, a copy of such document certified as a true, complete and up to date copy of the original by any of the directors or officers for the time being of such company or by such company’s attorneys or solicitors;

“**Charter Assignment**” means a specific assignment of any Extended Employment Contract required to be executed hereunder by any Owner in favour of the Security Trustee (including any notices and/or acknowledgements and/or undertakings associated therewith) in such form as the Agent and the Majority Lenders may require in their sole discretion;

“**Classification**” means, in relation to each Vessel, the highest class available for a vessel of her type with the relevant Classification Society;

“**Classification Society**” means, in relation to each Vessel, DNV GL, Lloyds Register, American Bureau of Shipping and Bureau Veritas or any other IACS classification society which the Agent shall, at the request of the Borrowers, have agreed in writing shall be treated as the classification society in relation to such Vessel for the purposes of the relevant Ship Security Documents;

“**Code**” means the US Internal Revenue Code of 1986, as amended, and the regulations promulgated and rulings issued thereunder;

“**Commitment**” means, with respect to each Lender, the amount set out opposite the name of such Lender in schedule 1 (or its successor pursuant to the terms of any relevant Transfer Certificate executed pursuant to the terms of this Agreement) that such Lender has agreed to advance to the Borrowers hereunder in respect of the Loan, in each case as such amount may have been reduced and/or cancelled by any relevant term of this Agreement;

“**Compliance Certificate**” means a certificate substantially in the form set out in schedule 6 signed by the chief financial officer of the Corporate Guarantor evidencing (as the case may be) compliance by the Corporate Guarantor with the provisions of clause 8.1.16 (*Financial Covenants of the Group*) and clause 8.2 (*Security Value*);

“**Contribution**” means, at any relevant time, in relation to each Lender, the principal amount of the Loan owing to such Lender at such time;

“**Corporate Guarantee**” means the guarantee required to be executed hereunder by the Corporate Guarantor in such form as the Agent and the Majority Lenders may require in their sole discretion;

“**Corporate Guarantor**” means Navios Maritime Partners L.P., a limited partnership established in the Marshall Islands and having its registered office at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands, MH96960;

“**CRD IV**” means the directive 2013/36/EU of the European Union on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms;

“**CRR**” means the regulation 585/2013/EU of the European Union on prudential requirements for credit institutions and investment firms;

“**Default**” means any Event of Default or any event or circumstance which with the giving of notice or lapse of time or the satisfaction of any other condition (or any combination thereof) would constitute an Event of Default;

“**Dollars**” and “**USD**” mean the lawful currency of the USA and in respect of all payments to be made under any of the Security Documents means funds which are for same day settlement in the New York Clearing House Interbank Payments System (or such other US dollar funds as may at the relevant time be customary for the settlement of international banking transactions denominated in US dollars);

“**Drawdown Date**” means the date being a Banking Day falling during the Drawdown Period, on which the Loan is, or is to be, made available;

“**Drawdown Notice**” means the notice substantially in the form of schedule 2;

“**Drawdown Period**” means the period commencing on the Execution Date and ending on the earliest of (a) the date falling 30 days after the Execution Date, (b) 30 October 2020 and (c) any date on which (i) the amount of the Loan has been made available in full to the Borrowers by the Lenders in accordance with the provisions of clause 2 or (ii) the Total Commitment is reduced to zero pursuant to clauses 2.7, 10.2 or 12;

“**Earnings**” means, in respect of a Vessel, all moneys whatsoever from time to time due or payable to the relevant Owner during the Facility Period arising out of the use or operation of such Vessel including (but without limiting the generality of the foregoing) all freight, hire and passage moneys, income arising under pooling arrangements, compensation payable to the relevant Owner in event of requisition of such Vessel for hire, 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 (including any contract of affreightment) for the employment of such Vessel;

“**Earnings Account**” means, in respect of each Borrower, an interest bearing USD Account required to be opened hereunder with the Account Bank in the name of that Borrower designated “[NAME OF VESSEL]—EARNINGS ACC” and includes any other account designated in writing by the Agent to be an Earnings Account for the purposes of this Agreement;

“**Earnings Account Pledge**” means, in respect of each Earnings Account, a first priority pledge required to be executed hereunder between the relevant Borrower and the Security Trustee in respect of its Earnings Account in such form as the Agent may require in its sole discretion, and in the plural means both of them;

“**EBITDA**” means the aggregate amount of combined pre-tax profits of the Group before extraordinary or exceptional items, interest, depreciation and amortisation as shown by the Latest Accounts for the relevant period;

“**EEA Member Country**” means any member state of the European Union, Iceland, Liechtenstein and Norway;

“**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;

“**Encumbrance**” means any mortgage, charge, pledge, lien, hypothecation, assignment, title retention, preferential right, option, trust arrangement or security interest or other encumbrance, security or arrangement conferring howsoever a priority of payment in respect of any obligation of any person;

“**Environmental Affiliate**” means any agent or employee of either Borrower, any Manager (other than the Third Party Manager), or any other Group Member or any other person having a contractual relationship with either Borrower, any Manager (other than the Third Party Manager), or any other Group Member in connection with any Relevant Ship or its operation or the carriage of cargo and/or passengers thereon and/or the provision of goods and/or services on or from any Relevant Ship;

“**Environmental Approval**” means any consent, authorisation, licence or approval of any governmental or public body or authorities or courts applicable to any Relevant Ship or its operation or the carriage of cargo and/or passengers thereon and/or the provision of goods and/or services on or from any Relevant Ship required under any Environmental Law;

“**Environmental Claim**” means (i) any claim by, or directive from, any applicable Government Entity alleging breach of, or non-compliance with, any Environmental Laws or Environmental Approvals or otherwise howsoever relating to or arising out of an Environmental Incident or (ii) any claim by any other third party howsoever relating to or arising out of an Environmental Incident (and, in each such case, “claim” shall include a claim for damages and/or direction for and/or enforcement relating to clean-up costs, removal, compliance, remedial action or otherwise) or (iii) any Proceedings arising from any of the foregoing;

“**Environmental Incident**” means, regardless of cause, (i) any discharge or release of Environmentally Sensitive Material from any Relevant Ship; (ii) any incident in which Environmentally Sensitive Material is discharged or released from a vessel other than a Relevant Ship which involves collision between a Relevant Ship and such other vessel or some other incident of navigation or operation, in either case, where the Relevant Ship, the relevant Manager (other than the Third Party Manager) and/or the relevant Owner and/or the relevant Group Member and/or the relevant Operator (other than the Third Party Manager) are actually, contingently or allegedly at fault or otherwise howsoever liable (in whole or in part) or (iii) any incident in which Environmentally Sensitive Material is discharged or released from a vessel

other than a Relevant Ship and where such Relevant Ship is actually or reasonably likely to be arrested as a result and/or where the relevant Manager (other than the Third Party Manager) and/or the relevant Owner and/or other Group Member and/or the relevant Operator (other than the Third Party Manager) are actually or contingently at fault or allegedly and reasonably likely to be found at fault or otherwise howsoever liable to any administrative or legal action;

“**Environmental Laws**” means all laws, regulations, conventions and agreements whatsoever relating to pollution, human or wildlife well-being or protection of the environment (including, without limitation, the United States Oil Pollution Act of 1990 and any comparable laws of the individual States of the USA);

“**Environmentally Sensitive Material**” means oil, oil products or any other products or substance which are polluting, toxic or hazardous or any substance the release of which into the environment is howsoever regulated, prohibited or penalised by or pursuant to any Environmental Law;

“**Event of Default**” means any of the events or circumstances listed in clause 10.1;

“**Execution Date**” means the date on which this Agreement has been executed by all the parties hereto;

“**Extended Employment Contract**” means, in respect of a Vessel, any time charterparty, contract of affreightment or other contract of employment of such ship (including the entry of either Vessel in any pool) which has a tenor exceeding twenty four (24) months (including any options to renew or extend such tenor);

“**Facility Period**” means the period starting on the Execution Date and ending on such date as all obligations whatsoever of all of the Security Parties under or pursuant to the Security Documents whensoever arising, actual or contingent, have been irrevocably paid, performed and/or complied with;

“**FATCA**” means:

- (a) sections 1471 to 1474 of the Code or any associated regulations or other associated 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 paragraph (a) above; or

- (c) any agreement pursuant to the implementation of 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 Security Document required by FATCA;
- “**FATCA Exempt Party**” means a party that is entitled to receive payments free from any FATCA Deduction;
- “**FATCA FFI**” means a foreign financial institution as defined in section 1471(d)(4) of the Code which, if the Lender is not a FATCA Exempt Party, could be required to make a FATCA Deduction;
- “**Fee Letter**” means any letter or letters between the Agent and the Borrowers setting out any of the fees referred to in clause 5.1.
- “**Flag State**” means the Republic of Panama, the Republic of Liberia, the Republic of the Marshall Islands, Malta or such other state or territory agreed by the Agent (acting on the instructions of the Majority Lenders), at the request of the Borrowers, as the “Flag State” of the Vessels for the purposes of the Security Documents;
- “**General Assignment**” means, in respect of each Vessel, the deed of assignment of its Earnings, Insurances and Requisition Compensation executed or to be executed by the relevant Owner in favour of the Security Trustee in such form as the Agent and the Majority Lenders may require in their sole discretion and in the plural means both of them;
- “**Government Entity**” means any national or local government body, tribunal, court or regulatory or other agency and any organisation of which such body, tribunal, court or agency is a part or to which it is subject;
- “**Group**” means at any relevant time the Corporate Guarantor and its subsidiaries but not including any subsidiary which is listed on any public stock exchange;
- “**Group Member**” means any member of the Group;
- “**IACS**” means the International Association of Classification Societies;
- “**Indebtedness**” means any obligation howsoever arising (whether present or future, actual or contingent, secured or unsecured as principal, surety or otherwise) for the payment or repayment of money;
- “**Insurances**” means, in respect of a Vessel, all policies and contracts of insurance (which expression includes all entries of such Vessel in a protection and indemnity or war risks association) which are from time to time during the Facility Period in place or taken out or entered into by or for the benefit of the relevant Owner (whether in the sole name of the Owner, or in the joint names of the Owner and the Security Trustee or otherwise) in respect of the Vessel and her Earnings or otherwise howsoever in connection with the Vessel and all benefits thereof (including claims of whatsoever nature and return of premiums);

“**Insurances Assignment**” means, in respect of each Vessel, an assignment of its Insurances executed or to be executed by any co-assured (other than the relevant Owner and the relevant Manager) in favour of the Security Trustee in such form as the Agent may require in its sole discretion and in the plural means all of them;

“**Interest Expense**” means, for any relevant financial period, the aggregate interest paid or payable by the Group and any member thereof on any Indebtedness during such period;

“**Interest Payment Date**” means the last day of an Interest Period and, if an Interest Period is longer than 3 months, the date falling at the end of each successive period of 3 months during such Interest Period starting from its commencement;

“**Interest Period**” means each period for the calculation of interest in respect of the Loan ascertained in accordance with the provisions of clause 3;

“**Interest Rate Determination Date**” means, in relation to any period for which an interest rate is to be determined, the date falling three (3) Banking Days before the first day of that period;

“**ISM Code**” means in relation to its application to the Borrowers, the Vessels and their operation:

- (a) ‘The International Management Code for the Safe Operation of Ships and for Pollution Prevention’, currently known or referred to as the ‘ISM Code’, adopted by the Assembly of the International Maritime Organisation by Resolution A.741(18) on 4 December 1993 and incorporated on 19 May 1994 into Chapter IX of the International Convention for Safety of Life at Sea 1974 (SOLAS 1974); and
- (b) all further resolutions, circulars, codes, guidelines, regulations and recommendations which are now or in the future issued by or on behalf of the International Maritime Organisation or any other entity with responsibility for implementing the ISM Code, including, without limitation, the ‘Guidelines on implementation or administering of the International Safety Management (ISM) Code by Administrations’ produced by the International Maritime Organisation pursuant to Resolution A.788(19) adopted on 25 December 1995,

as the same may be amended, supplemented or replaced from time to time;

“**ISM Code Documentation**” means, in relation to a Vessel, the document of compliance (DOC) and safety management certificate (SMC) issued by a Classification Society pursuant to the ISM Code in relation to that Vessel within the periods specified by the ISM Code;

“**ISM SMS**” means the safety management system which is required to be developed, implemented and maintained under the ISM Code;

“**ISPS Code**” means the International Ship and Port Security Code of the International Maritime Organisation and includes any amendments or extensions thereto and any regulations issued pursuant thereto;

“**ISSC**” means an International Ship Security Certificate issued in respect of a Vessel pursuant to the ISPS Code;

“**Latest Accounts**” means, in respect of the financial quarter of the Group ending on 30 June and 31 December each year, the latest unaudited (in respect of each financial quarter) or audited (in respect of each financial year) financial statements required to be prepared pursuant to clause 8.1.6 for the relevant financial quarter;

“**Lenders**” means the banks listed in schedule 1 and Transferee Lenders;

“**Lending Branch**” means, in respect of each Lender, its office or branch at the address set out beneath its name in schedule 1 (or, in the case of a Transferee, in the Transfer Certificate to which it is a party as Transferee) or such other office or branch as any Lender shall from time to time select and notify through the Agent to the other parties to this Agreement;

“**LIBOR**” means for an Interest Period or any part thereof:

- (a) the applicable Screen Rate at or about 11.00 a.m. (London time) on the Interest Rate Determination Date for Dollars and for a period equal in length to the Interest Period then applicable to the Loan or that part of the Loan; or
- (b) in case of Screen Rate Replacement Event, the Replacement Benchmark on the Interest Rate Determination Date for Dollars and for a period equal in length to the Interest Period

and if, in either case, that rate is less than zero, LIBOR shall be deemed to be zero;

“**Liquidity**” means the aggregate of any cash deposits legally or beneficially held by all Group Members and including any funds held with the Account Bank and other banks from time to time to satisfy minimum liquidity requirements;

“**Loan**” means the principal amount made, or to be made, available by the Lenders on the terms and subject to the conditions of this Agreement in an amount of up to USD33,000,000 subject to clause 2 of this Agreement for the purpose described in clause 1.1 or, as the context may require, the aggregate principal amount owing to the Lenders under this Agreement at any relevant time;

“**Loss Payable Clauses**” means the provisions regulating the manner of payment of sums receivable under the Insurances which are to be incorporated in the relevant insurance documents, such provisions to be in the forms set out in schedule 1 to the General Assignment or in such other forms as may from time to time be required or agreed in writing by the Security Trustee;

“**Majority Lenders**” means at any relevant time when there are two Lenders, both of them, and at any time when there are more than two Lenders, the Lenders whose Contributions exceed 66.2/3% of the Loan;

“**Management Agreement**” means, in respect of each Vessel, the management agreement between or on behalf of the relevant Owner and the relevant Manager, each in a form previously approved in writing by the Agent (acting on the instructions of the Majority Lenders);

“**Manager**” means, in respect of each Vessel, Navios Shipmanagement Inc., a company incorporated in the Marshall Islands and having its registered office at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands, MH96960, or any other technical management company wholly owned by a Permitted Holder or the Third Party Manager or, with the prior written consent of the Agent (acting on the instructions of the Majority Lenders), any other person appointed by or on behalf of an Owner as the commercial and/or technical manager of the relevant Mortgaged Vessel;

“**Manager’s Undertakings**” means, collectively, the undertakings and assignments required to be executed hereunder by the relevant Manager in favour of the Security Trustee in respect of each of the Vessels each in such form as the Agent and the Majority Lenders may require in their sole discretion;

“**Margin**” means, in relation to each Interest Period, (i) 3.25% per annum or (ii) if clause 3.8 applies, 3.50% per annum;

“**Material Adverse Effect**” means, in the reasonable opinion of the Banks, a material adverse effect on (i) the Banks’ rights under, or the security provided by, any Security Document, (ii) the ability of any Security Party to perform or comply with any of its obligations under any Security Document or (iii) the value or nature of the property, assets, operations, liabilities or financial condition of any Security Party;

“**Maturity Date**” means the earlier of (i) the date falling five (5) years after the Drawdown Date and (ii) 30 September 2025;

“**Money Laundering**” has the meaning given to it in Article 1 of Directive 2015/849/EC of the Council of European Communities;

“**month**” means a period beginning in one calendar month and ending in the next calendar month on the day numerically corresponding to the day of the calendar month on which it started, provided that (i) if the period started on the last Banking Day in a calendar month or if there is no such numerically corresponding day, it shall end on the last Banking Day in the next calendar month and (ii) if such numerically corresponding day is not a Banking Day, the period shall end on the next following Banking Day in the same calendar month but if there is no such Banking Day it shall end on the preceding Banking Day and “months” and “monthly” shall be construed accordingly;

“**Mortgage**” means, in respect of each Vessel, the first preferred mortgage of such Vessel required to be executed hereunder by the Borrower which is the owner thereof in favour of the Security Trustee, including, if appropriate, any deed of covenant collateral thereto, each in such form as the Agent may require in its sole discretion and in the plural means both of them;

“**Mortgaged Vessel**” means, at any relevant time, a Vessel which is at such time subject to a Mortgage and a Vessel shall, for the purposes of this Agreement, be regarded as a Mortgaged Vessel as from the date on which the Mortgage of that Vessel has been executed and registered in accordance with this Agreement until whichever shall be the earlier of (i) the payment in full of the amount required to be paid to the Agent pursuant to clause 4.3 or 4.4 following the Total Loss or sale respectively of such Vessel and (ii) the end of the Facility Period;

“**Navios Holdings**” means Navios Maritime Holdings Inc., a company incorporated in the Marshall Islands and having its registered office at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands, MH96960

“**Net Total Debt**” means total debt as evidenced at any relevant time by the Latest Accounts, in which they shall have been calculated in accordance with US GAAP less the value of the liabilities relating to operating leases as defined under rule ASC 842 of the US GAAP and cash (which shall have the meaning given thereto under US GAAP) of the Group;

“**Net Worth**” means, at any relevant time, the Total Assets less Total Liabilities;

“**Notice of Assignment of Insurances**” means a notice of assignment in the form set out in schedule 2 to the General Assignment or in such other form as may from time to time be required or agreed in writing by the Security Trustee;

“**Operator**” means any Manager and any person who is from time to time during the Facility Period concerned in the operation of a Relevant Ship and falls within the definition of “Company” set out in rule 1.1.2 of the ISM Code;

“**Owner**” means, in relation to:

- (i) Vessel A, Emery; and
- (ii) Vessel B, Rondine,

and in the plural means both of them;

“**Party**” means a party to this Agreement;

“**Permitted Encumbrance**” means any Encumbrance in favour of the Banks or any of them created pursuant to the Security Documents and Permitted Liens;

“**Permitted Holders**” means each of: (i) Angeliki Frangou; (ii) each of her 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 company or other Person in which any of the foregoing, individually or in the aggregate, own or control a majority in interest; (iii) Navios Holdings; and (iv) all Affiliates controlled by the Persons named in clauses (i) and (ii) above;

“**Permitted Liens**” means any lien on a Vessel for master’s, officer’s or crew’s wages outstanding in the ordinary course of trading, any lien for salvage and any ship repairer’s or outfitter’s possessory lien for a sum not (except with the prior written consent of the Agent) exceeding the Casualty Amount;

“**Person**” means any natural person, corporation, limited partnership, general partnership, limited liability company, limited liability partnership, joint venture, association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof or any other entity, whether legal or not;

“**Pertinent Jurisdiction**” means any jurisdiction in which or where any Security Party is incorporated, resident, domiciled, has a permanent establishment or assets, carries on, or has a place of business or is otherwise howsoever effectively connected;

“**Prepayment Ratio**” means, in respect of the sale or Total Loss of a Mortgaged Vessel, the Valuation Amount of such Mortgaged Vessel immediately prior to such sale or Total Loss divided by the aggregate of the Valuation Amounts of all of the Mortgaged Vessels immediately prior to such sale or Total Loss;

“**Proceedings**” means any litigation, arbitration, legal action or complaint or judicial, quasi-judicial or administrative proceedings whatsoever arising or instigated by anyone in any court, tribunal, public office or other forum whatsoever and wheresoever (including, without limitation, any action for provisional or permanent attachment of any thing or for injunctive remedies or interim relief and any action instigated on an ex parte basis);

“Registry” means, in relation to each Vessel, the office of the registrar, commissioner or representative of the Flag State, which is duly empowered to register such Vessel, the relevant Owner’s title thereto and the relevant Mortgage under the laws and flag of the Flag State;

“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 Ship” means each of the Vessels and any other ship from time to time (whether before or after the Execution Date) owned, managed or crewed by, or chartered to, any Group Member;

“Repayment Dates” means, subject to clause 6.3, 30 December 2020 and each of the dates falling at quarterly intervals thereafter, up to and including the Maturity Date;

“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) in the opinion of the Majority Lenders and the Borrowers, generally accepted in the international loan markets as the appropriate successor to a Screen Rate; or
- (c) in the opinion of the Majority Lenders and the Borrowers, an appropriate successor to a Screen Rate;

“Required Authorisation” means any authorisation, consent, declaration, licence, permit, exemption, approval or other document, whether imposed by or arising in connection with any law, regulation, custom, contract, security or otherwise howsoever which must be obtained at any time from any person, Government Entity, central bank or other self-regulating or supra-national authority in order to enable the Borrowers lawfully to borrow or draw the Loan and/or to enable any Security Party lawfully and continuously to continue its corporate existence and/or perform all its obligations whatsoever whensoever arising and/or grant security under the relevant Security Documents and/or to ensure the continuous validity and enforceability thereof;

“**Required Security Amount**” means the amount in USD (as certified by the Agent) which is at any relevant time 130% of the Loan;

“**Requisition**” means, in respect of a Vessel, requisition for title or other compulsory acquisition including, if that ship is not released therefrom within the Relevant Period, capture, appropriation, forfeiture, seizure, detention, deprivation or confiscation howsoever for any reason (but excluding requisition for use or hire) by or on behalf of any Government Entity or other competent authority or by pirates, hijackers, terrorists or similar persons; “**Relevant Period**” means for the purposes of this definition of Requisition either (i) ninety (90) days or, (ii) in respect of pirates, hijackers, terrorists or similar persons, if relevant underwriters confirm in writing (in terms satisfactory to the Lenders) prior to the end of such ninety (90) day period that such capture, appropriation, forfeiture, seizure, detention, deprivation or confiscation will be covered by the relevant Owner’s war risks insurance, the shorter of twelve (12) months after the date upon which the relevant incident occurred and such period at the end of which cover is confirmed to attach;

“**Requisition Compensation**” means, in respect of a Vessel, all moneys or other compensation from time to time payable during the Facility Period by reason of the Requisition of such Vessel;

“**Resolution Authority**” means any body which has authority to exercise any Write-down and Conversion Powers;

“**Retention Account**” means an interest bearing USD Account required to be opened hereunder with the Account Bank in the name of the Borrowers designated “GEM AND VICTORY RETENTION ACC” and includes any other account designated in writing by the Agent to be the Retention Account for the purposes of this Agreement;

“**Retention Account Pledge**” means a first priority pledge required to be executed hereunder between the Borrowers and the Security Trustee in respect of the Retention Account in such form as the Agent may require in its sole discretion;

“**Retention Amount**” means, in relation to any Retention Date, such sum as shall be the aggregate of:

- (a) one third (1/3rd) of the repayment instalment in respect of the Loan falling due for payment pursuant to clause 4.1.1 (as the same may have been reduced by any prepayment) on the next Repayment Date after the relevant Retention Date; and
- (b) the applicable fraction (as hereinafter defined) of the aggregate amount of interest falling due for payment in respect of each part of the Loan during and at the end of each Interest Period current at the relevant Retention Date and, for this purpose, the expression “**applicable fraction**” in relation to each Interest Period shall mean a fraction having a numerator of one and a denominator equal to the number of Retention Dates falling within the relevant Interest Period;

“**Retention Dates**” means 30 October 2020 and each of the dates falling at monthly intervals after such date and prior to the Maturity Date;

“**Sanction Authority**” means:

- (a) the government of the United States of America;
- (b) the United Nations;
- (c) the European Union (or the governments of any of its member states);
- (d) the United Kingdom; or
- (e) the respective governmental institutions and agencies of any of the foregoing including the Office of Foreign Assets Control of the U.S. Department of the Treasury (“**OFAC**”), the United States Department of State, the United States Department of Commerce and Her Majesty’s Treasury;

“**Sanctions**” means any economic, financial or trade sanctions laws, regulations, embargoes or other restrictive measures adopted, administered, enacted or enforced by any Sanctions Authority, or otherwise imposed by any law or regulation compliance with which is reasonable in the ordinary course of business of either Borrower, any Security Party, any Manager (other than the Third Party Manager) or any Bank or to which either Borrower, any Security Party, any Manager or any Bank are subject (which shall include without limitation, any extra-territorial sanctions imposed by law or regulation of the United States of America);

“**Sanctions Restricted Jurisdiction**” means any country or territory which is the target of country-wide or territory-wide Sanctions, including as at the Execution Date, Iran, Sudan, Syria, Crimea, North Korea and Cuba;

“**Sanctions Restricted Person**” means a person or vessel:

- (a) that is, or is directly or indirectly, owned or controlled (as such terms are defined by the relevant Sanctions Authority) by, or acting on behalf of, one or more persons or entities on any list (each as amended, supplemented or substituted from time to time) of restricted entities, persons or organisations (or equivalent) published by a Sanctions Authority;

- (b) that is located or resident in or incorporated under the laws of, or owned or controlled by, a person located or resident in or incorporated under the laws of a Sanctions Restricted Jurisdiction; or
- (c) that is otherwise the target or subject of Sanctions;

“**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 Agent may 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 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 the Screen Rate determines that the 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 events leading to such determination are not (in the opinion of the Majority Lenders and the Borrowers temporary; or

- (ii) the Screen Rate is calculated in accordance with any such policy or arrangement for a period no less than 10 Banking Days; 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;

“**Security Documents**” means this Agreement, the Corporate Guarantee, the Mortgages, the General Assignments, any Charter Assignment, the Earnings Account Pledges, the Retention Account Pledge, the Manager’s Undertakings, the Shares Charges, any Insurances Assignment, any Fee Letter and any other documents as may have been or shall from time to time after the Execution Date be executed to guarantee and/or to govern and/or to secure payment of all or any part of the Loan, interest thereon and other moneys from time to time owing by the Borrowers pursuant to this Agreement (whether or not any such document also guarantees and/or secures moneys from time to time owing pursuant to any other document or agreement);

“**Security Party**” means the Borrowers, the Corporate Guarantor, the Shareholder or any other person who may at any time be a party to any of the Security Documents (other than the Banks and the Managers);

“**Security Trustee**” means Crédit Agricole Corporate and Investment Bank, acting through its office at 12, place des Etats-Unis, CS 70052, 92547 Montrouge Cedex, France (or of such other address as may last have been notified to the other parties to this Agreement pursuant to clause 17.2.3) or such other person as may be appointed as Security Trustee and trustee by the Lenders, the Arranger, the Account Bank and the Agent pursuant to clause 16.14;

“**Security Value**” means the amount in USD which is, at any relevant time, the aggregate of (a) the Valuation Amounts of the Mortgaged Vessels as most recently determined in accordance with clause 8.2.2 and (b) the net realizable market value of any additional security for the time being actually provided to the Lenders pursuant to clause 8.2.1(b), it being agreed however that in case of additional security in the form of cash in Dollars, the same will be valued on a Dollar for Dollar basis;

“**Shareholder**” means Navios Maritime Operating L.L.C., a limited liability company incorporated in the Marshall Islands and having its registered office at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands, MH96960;

“**Shares Charge**” means the first priority charge of the shares of and in each Borrower to be executed by the Shareholder in favour of the Security Trustee in such form as the Agent may require in its sole discretion and in the plural means both of them;

“**Ship Security Documents**” means in relation to each Vessel, the Mortgage, the General Assignment, any Charter Assignment, the Manager’s Undertakings and the Insurances Assignments in respect of such Vessel;

“**subsidiary**” of a person means any company or entity directly or indirectly controlled by such person, and for this purpose “control” means the ownership of more than fifty per cent (50%) of the voting share capital (or equivalent rights of ownership) of such company or entity;

“**Taxes**” includes all present and future income, corporation, capital or value-added taxes and all stamp and other taxes and levies, imposts, deductions, duties, charges and withholdings whatsoever together with interest thereon and penalties in respect thereto, if any, and charges, fees or other amounts made on or in respect thereof (and “Taxation” shall be construed accordingly);

“**Total Assets**” means, as at the date of calculation or, as the case may be, for any accounting period, the total assets (based on book values) (which shall have the meaning given thereto under US GAAP) of the Corporate Guarantor as at that date or for that period as shown in the Latest Accounts;

“**Total Liabilities**” means, as at the date of calculation or, as the case may be, for any accounting period, the total liabilities (which shall have the meaning given thereto under US GAAP) of the Corporate Guarantor as at that date or for that period as shown in the Latest Accounts;

“**Total Commitment**” means, at any relevant time, the aggregate of the Commitments of all the Lenders at such time (being the aggregate of the sums set out opposite their names in schedule 1);

“**Total Loss**” means, in respect of each Vessel:

- (a) actual, constructive, compromised, agreed or arranged total loss of such Vessel; or
- (b) Requisition; or
- (c) any hijacking, theft, condemnation, capture, seizure, arrest, detention or confiscation of such Vessel not falling within the definition of Requisition, unless such Vessel be released and restored to the relevant Owner within ninety (90) days after such incident;

“**Transfer Certificate**” means a certificate in substantially the form set out in schedule 4;

“**Transferee Lender**” has the meaning ascribed thereto in clause 15.3;

“**Transferor Lender**” has the meaning ascribed thereto in clause 15.3;

“**Trust Deed**” means a trust deed in the form, or substantially in the form, set out in schedule 5;

“**Trust Property**” means (i) the security, powers, rights, titles, benefits and interests (both present and future) constituted by and conferred on the Banks or any of them under or pursuant to the Security Documents (including, without limitation, the benefit of all covenants, undertakings, representations, warranties and obligations given, made or undertaken to any Bank in the Security Documents), (ii) all moneys, property and other assets paid or transferred to or vested in any Bank (or anyone else on such Bank’s behalf) or received or recovered by any Bank (or anyone else on such Bank’s behalf) pursuant to, or in connection with, any of the Security Documents whether from any Security Party or any other person and (iii) all moneys, 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 Bank (or anyone else on such Bank’s behalf) in respect of the same (or any part thereof);

“**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 BRDD) Part I 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 institutions or their affiliates (otherwise than through liquidation, administration or other insolvency proceedings);

“**Underlying Documents**” means, together, any Extended Employment Contracts and the Management Agreements;

“**Unlawfulness**” means any event or circumstance which either is or, as the case may be, might in the opinion of the Agent become the subject of a notification by the Agent to the Borrowers under clause 12.1;

“**US GAAP**” means generally accepted accounting principles in the US;

“**US Tax Obligor**” means:

- (a) a Borrower if it is resident for tax purposes in the USA; or
- (b) a Security Party some or all of whose payments under the Security Documents are from sources within the USA for USA federal income tax purposes;

“**USA**” means the United States of America;

“**Valuation Amount**” means, in respect of each Mortgaged Vessel, the value thereof as most recently determined under clause 8.2.2 (b);

“**Vessel**” means each of Vessel A and Vessel B and in the plural means both of them as defined in Schedule 7; and

“**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.

Words and expressions defined in Schedule 7 (Vessel and Third Party Manager Details) shall have the meanings given to them therein as if the same were set out in full in this clause 1.2.

1.3 **Construction**

In this Agreement, unless the context otherwise requires:

- 1.3.1 clause headings and the index are inserted for convenience of reference only and shall be ignored in the construction of this Agreement;
- 1.3.2 references to clauses and schedules are to be construed as references to clauses of, and schedules to, this Agreement and references to this Agreement include its schedules and any supplemental agreements executed pursuant hereto;
- 1.3.3 references to (or to any specified provision of) this Agreement or any other document shall be construed as references to this Agreement, that provision or that document as in force for the time being and as duly amended and/or supplemented and/or novated;
- 1.3.4 references to a “regulation” include any present or future regulation, rule, directive, requirement, request or guideline (whether or not having the force of law) of any Government Entity, central bank or any self-regulatory or other supra-national authority (including, without limitation, any regulation implementing or complying with (1) 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 Execution Date (“**Basel II**”) and/or (2) Basel III and/or (3) Basel IV and (4) any other law or regulation which, at any time and from time to time, implements and/or amends and/or supplements and/or re-enacts and/or supersedes, whether in whole or in part, Basel II and/or Basel III and/or Basel IV (including CRD IV and CRR), and whether such implementation, application or compliance is by a Government Entity, a lender or any company affiliated to it);

- 1.3.5 references to any person in or party to this Agreement shall include reference to such person's lawful successors and assigns and references to a Lender shall also include a Transferee Lender;
- 1.3.6 words importing the plural shall include the singular and vice versa;
- 1.3.7 references to a time of day are, unless otherwise stated, to London time;
- 1.3.8 references to a person shall be construed as references to an individual, firm, company, corporation or unincorporated body of persons or any Government Entity;
- 1.3.9 references to a "guarantee" include references to an indemnity or any other kind of assurance whatsoever (including, without limitation, any kind of negotiable instrument, bill or note) against financial loss or other liability including, without limitation, an obligation to purchase assets or services as a consequence of a default by any other person to pay any Indebtedness and "guaranteed" shall be construed accordingly;
- 1.3.10 references to any statute or other legislative provision are to be construed as references to any such statute or other legislative provision as the same may be re enacted or modified or substituted by any subsequent statute or legislative provision (whether before or after the date hereof) and shall include any regulations, orders, instruments or other subordinate legislation issued or made under such statute or legislative provision;

- 1.3.11 a certificate by the Agent or the Security Trustee as to any amount due or calculation made or any matter whatsoever determined in connection with this Agreement shall be conclusive and binding on the Borrowers except for manifest error;
- 1.3.12 if any document, term or other matter or thing is required to be approved, agreed or consented to by any of the Banks such approval, agreement or consent must be obtained in writing unless the contrary is stated;
- 1.3.13 time shall be of the essence in respect of all obligations whatsoever of the Borrowers under this Agreement, howsoever and whensoever arising;
- 1.3.14 and the words “other” and “otherwise” shall not be construed *eiusdem generis* with any foregoing words where a wider construction is possible.
- 1.4 **Accounting terms and references to currencies**
- All accounting terms not otherwise defined in this Agreement shall have the meanings assigned to them in accordance with generally accepted international accounting principles (or such other accounting principles as the Agent deems appropriate).
- Currencies are referred to in this Agreement by the three letter currency codes (ISO 4217) allocated to them by the International Organisation for Standardisation.
- 1.5 **Contracts (Rights of Third Parties Act) 1999**
- No part of this Agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Agreement.
- 1.6 **Insurance terms**
- In this Agreement:
- 1.6.1 “**excess risks**” means, in relation to a Vessel, the proportion (if any) of claims for general average, salvage and salvage charges and under the ordinary collision clause not recoverable in consequence of the value at which such Vessel is assessed for the purpose of such claims exceeding her insured value;
- 1.6.2 “**policy**” in relation to insurance, includes a slip, cover note, certificate of entry or other document evidencing the contract of insurance or its terms;
- 1.6.3 “**protection and indemnity risks**” means the usual risks (including oil pollution and freight, demurrage and defence cover) covered by a protection and indemnity association which is a member of the International Group of P&I Clubs (including, without limitation, 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 therein of Clause 1 of the Institute Time Clauses (Hulls) (1/10/83) or Clause 8 of the Institute Time Clauses (Hulls) (1/11/95) or the Institute Amended Running Down Clause (1/10/71) or any equivalent provision which may be insured by entry with such association;

1.6.4 “**war risks**” includes the risk of mines and all risks excluded by Clause 23 of the Institute Time Clauses (Hulls) (1/10/83) or Clause 24 of the Institute Time Clauses (Hulls) (1/11/1995) or Clause 29 of the International Hull Clauses (1/11/02 and 1/11/03).

1.7 **Majority Lenders**

Where this Agreement or any other Security Document provides for any matter to be determined by reference to the opinion of the Majority Lenders or to be subject to the consent or request of the Majority Lenders or for any decision or action to be taken on the instructions in writing of the Majority Lenders, such opinion, consent, request or instructions shall (as between the Lenders) only be regarded as having been validly given or issued by the Majority Lenders if all the Lenders with a Commitment and/or Contribution shall have received prior notice of the matter on which such opinion, consent, request or instructions are required to be obtained and the relevant majority of such Lenders shall have given or issued such opinion, consent, request or instructions but so that (as between the Borrowers and the Banks) the Borrowers shall be entitled (and bound) to assume that such notice shall have been duly received by each relevant Lender and that the relevant majority shall have been obtained to constitute Majority Lenders whether or not this is in fact the case.

2 **THE AVAILABLE COMMITMENT AND CANCELLATION**

2.1 **Agreement to lend**

The Lenders, relying upon each of the representations and warranties in clause 7, agree to provide to the Borrowers upon and subject to the terms of this Agreement, the Loan for the purpose of the Borrowers making the proceeds of the Loan available to the Shareholder, which the Shareholder will use to pay to the current shareholder of each Borrower the purchase price of the shares in the Borrowers. Subject to the terms of this Agreement, the obligations of the Lenders shall be to contribute to the Loan, the proportion of the Loan which their respective Commitments bear to the Total Commitment on the Drawdown Date.

2.2 **Obligations several**

The obligations of the Lenders under this Agreement are several according to their respective Commitments and/or Contributions. The failure of any Lender to perform such obligations shall not relieve any other party to this Agreement of any of its respective obligations or liabilities under this Agreement nor shall any Bank be responsible for the obligations of any other Bank (except for its own obligations, if any, as a Lender) under this Agreement.

2.3 **Interests several**

Notwithstanding any other term of this Agreement (but without prejudice to the provisions of this Agreement relating to or requiring action by the Majority Lenders) the interests of the Banks are several and the amount due to any Bank is a separate and independent debt. Each Bank shall have the right to protect and enforce its rights arising out of this Agreement and it shall not be necessary for any other Bank to be joined as an additional party in any Proceedings for this purpose.

2.4 **Drawdown**

2.4.1 On the terms and subject to the conditions of this Agreement, the Loan shall be advanced to the Borrowers on the Drawdown Date following receipt by the Agent from the Borrowers of the Drawdown Notice not later than 10 a.m. on the third Banking Day before the proposed Drawdown Date.

- 2.4.2 The Drawdown Notice shall be effective on actual receipt by the Agent and, once given, shall, subject as provided in clause 3.6, be irrevocable.
- 2.5 **Limitation and application of the Loan**
- 2.5.1 The amount of the Loan shall not exceed the lesser of (i) thirty three million Dollars (USD33,000,000) and (ii) 65% of the aggregate of the Valuation Amount of the Vessels as at the Drawdown Date.
- 2.5.2 The Loan shall be paid forthwith upon drawdown to such account or accounts as the Borrowers shall stipulate in the Drawdown Notice.
- 2.6 **Availability**
- Upon receipt of the Drawdown Notice complying with the terms of this Agreement, the Agent shall promptly notify each Lender and each Lender shall make available to the Agent its portion of the Loan for payment by the Agent in accordance with clause 6.2. The Borrowers acknowledge that payment of the Loan to the account referred to in the Drawdown Notice shall satisfy the obligation of the Lenders to lend the Loan to the Borrowers under this Agreement.
- 2.7 **Voluntary cancellation of Facility**
- The Borrowers may, without penalty or cost but after payment of any Break Costs, at any time during the Drawdown Period by notice to the Agent (effective only on actual receipt) cancel with effect from a date not less than three (3) Banking Days after the receipt by the Agent of such notice the whole or any part of the Total Commitment. Any such notice of cancellation, once given, shall be irrevocable and the Total Commitment shall be reduced accordingly and each Lender's Commitment shall be reduced pro rata according to the proportion which its Commitment bears to the Total Commitment.
- 2.8 **Cancellation in changed circumstances**
- The Borrowers may also at any time during the Facility Period by notice to the Agent (effective only on actual receipt) prepay and cancel with effect from a date not less than three (3) days after receipt by the Agent of such notice, the whole but not part only, but without prejudice to the Borrowers' obligations under clauses 6.6 and 12, of the Contribution and Commitment (if any) of any Lender to which the Borrowers shall have become obliged to pay additional amounts under clause 12 or clause 6.6. Upon any notice of such prepayment and cancellation being given, the Commitment of the relevant Lender shall be reduced to zero, the Borrowers shall be obliged to prepay the Contribution of such Lender and such Lender's related costs (including but not limited to Break Costs) on such date and such Lender shall be under no obligation to participate in the Loan.

2.9 **Cancellation**

If any part of the Loan is not drawn down by the end of the Drawdown Period, the Commitment shall thereupon be automatically cancelled and the Lenders shall have no further obligation under this Agreement.

2.10 **Use of proceeds**

Without prejudice to the Borrowers' obligations under clause 8.1.4, no Bank shall have any responsibility for the application of the proceeds of the Loan or any part thereof by the Borrowers.

3 **INTEREST AND INTEREST PERIODS**

3.1 **Normal interest rate**

The Borrowers agree to pay interest on the Loan or part thereof in respect of each Interest Period relating thereto on each Interest Payment Date (or, in the case of Interest Periods of more than three (3) months, by instalments, the first of such instalments three (3) months from the commencement of the Interest Period and the subsequent instalments at intervals of three (3) months and on the last day of such Interest Period) at the rate per annum determined by the Agent to be the aggregate of (a) the Margin in respect of the Loan and (b) LIBOR for such period.

3.2 **Selection of Interest Periods**

The Borrowers may by notice received by the Agent not later than 10:00 a.m. on the second Banking Day before the beginning of each Interest Period request that such Interest Period shall have a length of three (3) or six (6) months or such other period as the Borrowers may select and the Agent (acting on the instructions of the Lenders) may, subject to the same being available in the London Interbank Market, agree, and if the Borrowers wish to specify an Interest Period of more than 12 months, they must give at least 5 Banking Days prior notice thereof.

3.3 **Determination of Interest Periods**

The length of each Interest Period shall be as requested by the Borrowers under clause 3.2 but so that:

- 3.3.1 the first Interest Period shall start on the Drawdown Date and end on 30 December 2020, and each subsequent Interest Period shall start the day falling after the last day of the previous Interest Period;
- 3.3.3 if any Interest Period would otherwise overrun a Repayment Date, then, in the case of the last Repayment Date, such Interest Period shall end on the last Repayment Date, and in the case of any other Repayment Date the Loan shall be divided into parts so that there is one part in the amount of the repayment instalment due on each Repayment Date falling in that Interest Period and having an Interest Period ending on the relevant Repayment Date and another part consisting of the balance of the Loan having an Interest Period ascertained in accordance with the other provisions of this clause 3; and

3.3.4 if the Borrowers fail to specify the length of an Interest Period in accordance with the provisions of clause 3.2 and this clause 3.3 such Interest Period shall last three months or such other period as complies with this clause 3.3.

3.4 **Default interest**

If the Borrowers fail to pay any sum whatsoever (including, without limitation, any sum payable pursuant to this clause 3.4) on its due date for payment under any of the Security Documents, the Borrowers must pay interest on such sum on demand from the due date up to the date of actual payment (as well after as before judgment) at a rate determined by the Agent pursuant to this clause 3.4. The period starting on such due date and ending on such date of payment shall be divided into successive periods of not more than one (1) month as selected by the Agent each of which (other than the first, which shall start on such due date) shall start on the last day of the preceding such period. The rate of interest applicable to each such period shall be the aggregate (as determined by the Agent) of (a) two per cent (2%) per annum, (b) the Margin and (c) LIBOR for such period. Such interest shall be due and payable on the last day of each such period as determined by the Agent and on the day on which all amounts in respect of which interest is being paid under this clause are paid, and each such day shall be treated as an Interest Payment Date, provided that if such unpaid sum is (i) an amount of principal which became due and payable by reason of a declaration by the Agent under clause 10.2.2 or (ii) a prepayment pursuant to clauses 4.3, 4.4, 8.2.1(a) or 12.1 on a date other than an Interest Payment Date relating thereto, the first such period selected by the Agent shall be of a length equal to the period between the due date of such principal sum and such Interest Payment Date and interest shall be payable on such principal sum during such period at a rate of two per cent (2%) above the rate applicable thereto immediately before it shall have become so due and payable. If, for the reasons specified in clause 3.6.1, the Agent is unable to determine a rate in accordance with the foregoing provisions of this clause 3.4, each Lender shall promptly notify the Agent of the cost of funds to such Lender and interest on any sum not paid on its due date for payment shall be calculated at a rate determined by the Agent to be two per cent (2%) per annum above the aggregate of the Margin and the arithmetic mean of the cost of funds to the Lenders compounded at such intervals as the Agent selects.

3.5 **Notification of Interest Periods and interest rate**

The Agent agrees to notify (i) the Lenders promptly of the length of each Interest Period and (ii) the Borrowers and the Lenders promptly of each rate of interest determined by it under this clause 3.

3.6 **Market disruption; non-availability**

3.6.1 Market Disruption Event: If and whenever, at any time prior to the commencement of any Interest Period, the Agent shall have determined (which determination shall be conclusive in the absence of manifest error) that a Market Disruption Event has occurred in relation to the Loan for any such Interest Period, then the Agent shall forthwith give notice thereof (a “**Determination Notice**”) to the Borrowers and the rate of interest on each Lender’s share in the Loan (or the relevant part thereof) for that Interest Period shall be the percentage rate per annum which is the sum of:

- (a) the Margin; and
- (b) the rate notified to the Agent by that Lender as soon as practicable and in any event by close of business on the date falling three (3) Banking Days after the Interest Rate Determination Date (or, if earlier, the date falling three (3) Banking Days before the date on which 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 the Loan from whatever source it may reasonably select.

3.6.2 Suspension of drawdown: If the Determination Notice is given before the Commitment (or a part thereof) is advanced, the Lenders’ obligation to make the Commitment (or a part thereof) available shall be suspended while the circumstances referred to in the Determination Notice continue.

3.6.3 Meaning of “Market Disruption Event”: In this Agreement “**Market Disruption Event**” means:

- (a) at or about noon on the Interest Rate Determination Date for the relevant Interest Period no Screen Rate is available for Dollars or Replacement Benchmark; and/or
- (b) before close of business on the Interest Rate Determination Date for the relevant Interest Period, the Agent receives notifications from a Lender that the cost to it of obtaining matching deposits in the London Interbank Market or the international market relevant to the Replacement Benchmark (as the case may be) to fund its participation in the Loan (or the relevant part thereof) for such Interest Period would be in excess of the Screen Rate or, as the case may be, the Replacement Benchmark for that Interest Period; and/or

- (c) before close of business on the Interest Rate Determination Date for the relevant Interest Period, the Agent receives notifications from a Lender that deposits in Dollars are not available to that Lender in the London Interbank Market or the international market relevant to the Replacement Benchmark (as the case may be) in the ordinary course of business in sufficient amounts to fund its participation in the Loan (or the relevant part thereof) for that Interest Period.

3.6.4 Alternative basis of interest or funding

- (a) If a Market Disruption Event occurs and the Agent or the Borrowers so require, the Agent and the Borrowers shall enter into negotiations (for a period of not more than twenty (20) days (the “**Negotiation Period**”)) after the giving of the relevant Determination Notice 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 be binding on the Lenders and all Security Parties.

3.6.5 Alternative basis of interest in absence of agreement: If the Agent and the Borrowers will not enter into negotiations as provided in Clause 3.6.4 (Alternative basis of interest or funding) or if an alternative interest rate or alternative basis is not agreed within the Negotiation Period, and the relevant circumstances are continuing at the end of the Negotiation Period, then the Agent shall set the following Interest Period and an interest rate representing the cost of funding of the relevant Lender in Dollars of its participation in the Loan (or the relevant part thereof) plus the Margin for such Interest Period; if the relevant circumstances are continuing at the end of the Interest Period so set by the Agent, the Agent shall continue to set the following Interest Period and an interest rate representing its cost of funding in Dollars of the Loan (or the relevant part thereof) plus the Margin for such Interest Period.

3.6.6 Notice of prepayment: If the Borrowers do not agree with an interest rate set by the Agent under Clause 3.6.5 (Alternative basis of interest in absence of agreement), the Borrowers may give the Agent not less than 3 Banking Days’ notice of its intention to prepay the Loan at the end of the interest period set by the Agent.

3.6.7 Prepayment; termination of Commitment: A notice under Clause 3.6.6 (Notice of prepayment) shall be irrevocable; and on the last Banking Day of the interest period set by the Agent the Borrowers shall prepay (without premium or penalty) the Loan, together with accrued interest thereon at the applicable rate plus the Margin and the balance of all other amounts payable under this Agreement and the other Security Documents or, if the Commitment has not been advanced, the Commitment shall be reduced to zero and the Loan shall not be made to the Borrowers under this Agreement thereafter.

3.6.8 Application of prepayment: The provisions of Clause 4 (Repayment and Prepayment) shall apply in relation to the prepayment made hereunder.

3.7 **Replacement of Screen Rate**

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 that Screen Rate; and

(b)

- (i) aligning any provision of any Security 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 hereto 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 Majority Lenders and the Borrowers.

3.8 **Margin Adjustment**

The Borrowers acknowledges that, if the Arranger determines that an increase in the Margin is required to enable a Lender to transfer any part of the Loan to other banks or financial institutions to its satisfaction, the Lenders may change the terms of this Agreement to increase the Margin up to 3.50% per annum and the Borrowers agree that they shall be bound by those changes.

4 **REPAYMENT AND PREPAYMENT**

4.1 **Repayment**

4.1.1 Subject as otherwise provided in this Agreement, the Borrowers must repay the Loan by twenty (20) equal quarterly instalments of USD850,000 each, to be repaid on each of the Repayment Dates and a balloon instalment in the amount of USD16,000,000 (the “**Balloon Instalment**”) to be repaid on the final Repayment Date.

If the Commitment in respect of the Loan is not drawn in full, the amount of each repayment instalments including the Balloon Instalment shall be reduced proportionately.

4.1.2 The Borrowers shall on the Maturity Date also pay to the Agent and the Lenders the whole of the Loan then outstanding and all other amounts in respect of interest or otherwise then due and payable under this Agreement and the Security Documents.

4.2 **Voluntary prepayment**

Subject to clauses 4.7 and 4.8 the Borrowers may prepay any specified amount (such part being in an amount of five hundred thousand Dollars (USD500,000) or any larger sum which is an integral multiple of such amount) of the Loan on any Interest Payment Date relating to the part of the Loan to be repaid without premium or penalty.

4.3 **Mandatory Prepayment on Total Loss**

On the date falling one hundred and eighty (180) days after that on which a Mortgaged Vessel became a Total Loss or, if earlier, on the date upon which the relevant insurance proceeds are, or Requisition Compensation in respect of such Mortgaged Vessel is, received by the relevant Borrower (or the Security Trustee pursuant to the Security Documents), the Borrowers must prepay the Loan by an amount equal to the aggregate of:

- (a) an amount equal to the amount of the Loan on the date on which such prepayment is required to be made multiplied by the Prepayment Ratio; and
- (b) any additional amount required to ensure that the Security Value after such prepayment is at least equal to the Required Security Amount.

4.4 **Interpretation**

For the purpose of this Agreement, a Total Loss shall be deemed to have occurred:

- (a) in the case of an actual total loss of a Vessel, on the actual date and at the time such Vessel was lost or, if such date is not known, on the date on which such Vessel was last reported;
- (b) in the case of a constructive total loss of a Vessel, upon the date and at the time notice of abandonment of the ship is given to the then insurers of such Vessel (provided a claim for total loss is admitted by such insurers) or, if such insurers do not immediately admit such a claim, at the date and at the time at which either a total loss is subsequently admitted by such insurers or a total loss is subsequently adjudged by a competent court of law or arbitration tribunal to have occurred;

- (c) in the case of a compromised or arranged total loss of a Vessel, on the date upon which a binding agreement as to such compromised or arranged total loss has been entered into by the then insurers of such Vessel;
- (d) in the case of Requisition, on the date when that occurs; and
- (e) in the case of hijacking, theft, condemnation, capture, seizure, arrest, detention or confiscation of a Vessel (other than within the definition of Requisition) on the date falling ninety (90) days after such incident.

4.5 **Mandatory prepayment on sale of Mortgaged Vessel**

On the date of completion of the sale or transfer of ownership of either Mortgaged Vessel the Borrowers must prepay the Loan by an amount equal to the aggregate of:

- (a) an amount equal to the amount of the Loan on the date on which such prepayment is required to be made multiplied by the Prepayment Ratio; and
- (b) any additional amount required to ensure that the Security Value after such prepayment is at least equal to the Required Security Amount.

4.6 **Change of control**

On the date that (a) the "Permitted Holders" own less than 15% of the issued share capital of the Corporate Guarantor or (b) the Corporate Guarantor owns and control, directly or through other companies, less than 100% of the issued share capital of either Borrower, the Borrowers must prepay the Loan in full.

4.7 **Amounts payable on prepayment**

Any prepayment of all or part of the Loan under this Agreement shall be made together with:

- 4.7.1 accrued interest on the amount to be prepaid to the date of such prepayment;
- 4.7.2 any additional amount payable under clauses 3.6, 6.6 or 12.2; and
- 4.7.3 all other sums payable by the Borrowers to the Banks under this Agreement or any of the other Security Documents including, without limitation any Break Costs.

4.8 **Notice of prepayment; reduction of repayment instalments**

- 4.8.1 No prepayment may be effected under clause 4.2 unless the Borrowers shall have given the Agent at least three (3) Banking Days' prior written notice of their intention to make such prepayment. Every notice of prepayment shall be effective only on actual receipt by the Agent, shall be irrevocable, shall specify the amount to be prepaid and shall oblige the Borrowers to make such prepayment on the date specified.
- 4.8.2 Any amounts prepaid pursuant to clause 4.2 shall be applied against the Loan in reducing the repayment instalments thereof (including the Balloon Instalment) pro rata or in such other manner and order as shall be agreed between the Borrowers and the Lenders at the time of such prepayment.

- 4.8.3 Any amounts prepaid pursuant to clauses 4.3(a) or 4.5(a) shall be applied pro rata against the repayment instalments which are at that time outstanding (including the Balloon Instalment) or in such other manner and order as shall be agreed between the Borrowers and the Lenders at the time of such prepayment.
- 4.8.4 Any amounts prepaid pursuant to clauses 4.3(b) or 4.5(b) shall be applied against the repayment instalments which are at that time outstanding (including the Balloon Instalment) in inverse or der of maturity or in such other manner and order as shall be agreed between the Borrowers and the Lenders at the time of such prepayment.
- 4.8.5 The Borrowers may not prepay any part of the Loan except as expressly provided in this Agreement.
- 4.8.6 No amount prepaid may be re-borrowed.

5 FEES AND EXPENSES

5.1 Fees

The Borrowers shall pay any relevant fees in accordance with any Fee Letters.

5.2 Expenses

The Borrowers agree to reimburse the Banks on a full indemnity basis on demand for all expenses and/or disbursements whatsoever certified by the Banks or any of them as having been incurred by them from time to time and at any time:

5.2.1 in connection howsoever with the syndication of the Loan and with the negotiation, preparation, execution and, where relevant, registration of the Security Documents and of any contemplated or actual amendment, or indulgence or the granting of any waiver or consent howsoever in connection with, any of the Security Documents; and

5.2.2 in contemplation or furtherance of, or otherwise howsoever in connection with, the exercise or enforcement of, or preservation of any rights, powers, remedies or discretions under any of the Security Documents, or in consideration of the Banks' rights thereunder or any action proposed or taken,

together with interest at the rate referred to in clause 3.4 from the date on which such expenses and/or disbursements were incurred to the date of payment (as well after as before judgment).

5.3 Value Added Tax

All fees and expenses payable under to this clause 5 must be paid with value added tax or any similar tax (if any) properly chargeable thereon. Any value added tax chargeable in respect of any services supplied by the Banks or any of them under this Agreement shall, on delivery of the value added tax invoice, be paid in addition to any sum agreed to be paid hereunder.

5.4 **Stamp and other duties**

The Borrowers must pay all stamp, documentary, registration or other like duties or taxes (including any duties or taxes payable by any of the Banks but excluding any FATCA Deduction) imposed on or in connection with any of the Underlying Documents, the Security Documents or the Loan and agree to indemnify the Banks or any of them against any liability arising by reason of any delay or omission by either Borrower to pay such duties or taxes.

6 **PAYMENTS AND TAXES; ACCOUNTS AND CALCULATIONS**

6.1 **No set-off or counterclaim**

All payments to be made by the Borrowers under any of the Security Documents must be made in full, without any set off or counterclaim whatsoever and, subject to clause 6.6, free and clear of any deductions or withholdings, in USD not later than 11 a.m. London time on the due date in freely available funds to such account at such bank and in such place as the Agent may from time to time specify for this purpose. Save as otherwise provided in this Agreement or any other relevant Security Documents, such payments shall be for the account of all Lenders and the Agent shall distribute such payments in like funds as are received by the Agent to the Lenders rateably, in the proportions which their respective Contributions bear to the aggregate of the Loan on the date on which such payment is made.

6.2 **Payment by the Lenders**

All sums to be advanced by the Lenders to the Borrowers under this Agreement shall be remitted in USD on the Drawdown Date to the account of the Agent at such bank as the Agent may have notified to the Lenders and shall be paid by the Agent on such date in like funds as are received by the Agent to the account or accounts specified in the Drawdown Notice.

6.3 **Non-Banking Days**

When any payment under any of the Security Documents would otherwise be due on a day which is not a Banking Day, the due date for payment shall be extended to the next following Banking Day unless such Banking Day falls in the next calendar month in which case payment shall be made on the immediately preceding Banking Day.

6.4 **Calculations**

All interest and other payments of an annual nature under any of the Security Documents shall accrue from day to day and be calculated on the basis of actual days elapsed and a three hundred and sixty (360) day year.

6.5 **Currency of account**

If any sum due from the Borrowers under any of the Security Documents, or under any order or judgment given or made in relation thereto or for any other reason whatsoever, must be converted from the currency (“the first currency”) in which the same is payable thereunder into another currency (“the second currency”) for the purpose of (i) making or filing a claim or proof against the Borrowers, (ii) obtaining an order or judgment in any court or other tribunal or (iii) enforcing any order or judgment given or made in relation thereto, the Borrowers undertake to

indemnify and hold harmless the Lender from and against any loss suffered as a result of any discrepancy between (a) the rate of exchange used for such purpose to convert the sum in question from the first currency into the second currency and (b) the rate or rates of exchange at which the Lender may in the ordinary course of business purchase the first currency with the second currency upon receipt of a sum paid to it in satisfaction, in whole or in part, of any such order, judgment, claim or proof. Any amount due from the Borrowers under this clause 6.5 shall be due as a separate debt and shall not be affected by judgment being obtained for any other sums due under or in respect of any of the Security Documents and the term “rate of exchange” includes any premium and costs of exchange payable in connection with the purchase of the first currency with the second currency.

6.6 **Grossing-up for Taxes - by the Borrowers**

If at any time the Borrowers must make any deduction or withholding in respect of Taxes (other than a FATCA Deduction) or deduction in respect of any royalty payment, duty, assessment or other charge or otherwise from any payment due under any of the Security Documents for the account of any Bank or if the Agent or the Security Trustee must make any deduction or withholding from a payment to another Bank or withholding in respect of Taxes from any payment due under any of the Security Documents, the sum due from the Borrowers in respect of such payment must then be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the relevant Bank receives on the due date for such payment (and retains, free from any liability in respect of such deduction or withholding), a net sum equal to the sum which it would have received had no such deduction or withholding been made and the Borrowers agree to indemnify each Bank on demand against any losses or costs certified by such Bank to have been incurred by it by reason of any failure of the Borrowers to make any such deduction or withholding or by reason of any increased payment not being made on the due date for such payment Provided however that if any Bank or the Agent or the Security Trustee shall be or become entitled to any Tax credit or relief in respect of any Tax which is deducted from any payment by the Borrowers and it actually receives a benefit from such Tax credit or relief in its country of domicile, incorporation or residence, the relevant Bank or the Agent or the Security Trustee, as the case may be, shall, subject to any laws or regulations applicable thereto, pay to the Borrowers after such benefit is effectively received by the relevant Bank or the Agent or the Security Trustee, as the case may be, such amounts (which shall be conclusively certified by the Agent) as shall ensure that the net amount actually retained by the relevant Bank or the Agent or the Security Trustee, as the case may be, is equal to the amount which would have been retained if there had been no such deduction **provided that** (i) nothing in this clause shall prevent the Banks from arranging their respective tax affairs in whichever manner they deem suitable, (ii) the declaration by any Bank of a rebate shall be conclusive and binding and (iii) no Bank shall be required to disclose its tax affairs to the Borrowers. The Borrowers must promptly deliver to the Agent any receipts, certificates or other proof evidencing the amounts (if any) paid or payable in respect of any deduction or withholding as aforesaid.

6.7 **Grossing-up for Taxes - by the Lenders**

If at any time a Lender must make any deduction or withholding in respect of Taxes from any payment due under any of the Security Documents for the account of the Agent or the Security Trustee, the sum due from such Lender in respect of such payment must be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the Agent or, as the case may be, the Security Trustee receives on the due date for such payment (and retains free from any liability in respect of such deduction or withholding) a net sum equal to the sum which it would have received had no such deduction or withholding been required to

be made and each Lender must indemnify the Agent and the Security Trustee against any losses or costs incurred by it by reason of any failure of such Lender to make any such deduction or withholding or by reason of any increased payment not being made on the due date for such payment.

6.8 Loan account

Each Lender shall maintain, in accordance with its usual practice, an account evidencing the amounts from time to time lent by, owing to and paid to it under the Security Documents. The Agent and/or the Security Trustee shall maintain a control account showing the Loan and other sums owing by the Borrowers under the Security Documents and all payments in respect thereof being made from time to time. The control account shall, in the absence of manifest error, be conclusive as to the amount from time to time owing by the Borrowers under the Security Documents.

6.9 Agent may assume receipt

Where any sum is to be paid under the Security Documents to the Agent or, as the case may be, the Security Trustee for the account of another person, the Agent or, as the case may be, the Security Trustee may assume that the payment will be made when due and the Agent or, as the case may be, the Security Trustee may (but shall not be obliged to) make such sum available to the person so entitled. If it proves to be the case that such payment was not made to the Agent or, as the case may be, the Security Trustee, then the person to whom such sum was so made available must on request refund such sum to the Agent or, as the case may be, the Security Trustee together with interest thereon sufficient to compensate the Agent or, as the case may be, the Security Trustee for the cost of making available such sum up to the date of such repayment and the person by whom such sum was payable must indemnify the Agent or, as the case may be, the Security Trustee for any and all loss or expense which the Agent or, as the case may be, the Security Trustee may sustain or incur as a consequence of such sum not having been paid on its due date.

6.10 Partial payments

If, on any date on which a payment is due to be made by the Borrowers under any of the Security Documents (the “**due amount**”), the amount received by the Agent from the Borrowers on such date is less than the full due amount then, without prejudice to any rights or remedies available to the Agent, the Security Trustee, the Security Trustee and the Lenders under any of the Security Documents, the Agent must apply the amount actually received from the Borrowers in or towards discharge of the obligations of the Borrowers under the Security Documents in the following order, notwithstanding any appropriation made, or purported to be made, by the Borrowers:

- 6.10.1 first, in or towards payment, on a pro-rata basis, of any unpaid costs and expenses of the Banks or any of them under any of the Security Documents;
- 6.10.2 secondly, in or towards payment of any fees payable to the Arranger, the Agent or any of the other Banks under, or in relation to, the Security Documents which remain unpaid;
- 6.10.3 thirdly, in or towards payment to the Lenders, on a pro rata basis, of any accrued interest owing in respect of the Loan which shall have become due under any of the Security Documents but remains unpaid;
- 6.10.4 fourthly, in or towards payment to the Lenders, on a pro rata basis according to their respective Contributions, of any principal in respect of the Loan which shall have become due and payable but remains unpaid;
- 6.10.5 fifthly, in or towards payment to the Lenders, on a pro rata basis, for any loss suffered by reason of any such payment in respect of principal not being effected on an Interest Payment Date relating to the part of the Loan repaid and which amounts are so payable under this Agreement; and
- 6.10.6 sixthly in or towards payment to the relevant person of any other sum which shall have become due under any of the Security Documents but remains unpaid (and, if more than one such sum so remains unpaid, on a pro rata basis).

The order of application set out in clauses 6.10.1 to 6.10.6 may be varied by the Agent if the Majority Lenders so direct, without any reference to, or consent or approval from, the Borrowers.

6.11 **FATCA**

- 6.11.1 Subject to clause 6.11.3 below, each Party shall, within ten (10) Banking Days of a reasonable request by another Party:
 - (a) confirm to that other Party whether it is:
 - (i) a FATCA Exempt Party; or
 - (ii) not a FATCA Exempt Party; and
 - (b) supply to that other Party such forms, documentation and other information relating to its status under FATCA (including its applicable passthru percentage or other information required under the Treasury Regulations or other official guidance including intergovernmental agreements) as that other Party reasonably requests for the purposes of that other Party's compliance with FATCA.

- 6.11.2 If a Party confirms to another Party pursuant to clause 6.11.1(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.
- 6.11.3 Clause 6.11.1(a) above shall not oblige any Bank to do anything which would or might in its reasonable opinion constitute a breach of:
- (a) any law or regulation;
 - (b) any policy of such Bank;
 - (c) any fiduciary duty; or
 - (d) any duty of confidentiality.
- 6.11.4 If a Party fails to confirm its status or to supply forms, documentation or other information requested in accordance with clause 6.11.1(a) above (including, for the avoidance of doubt, where clause 6.11.3 above applies), then:
- (a) if that Party failed to confirm whether it is (and/or remains) a FATCA Exempt Party then such Party shall be treated for the purposes of the Security Documents as if it is not a FATCA Exempt Party; and
 - (b) if that Party failed to confirm its applicable passthru percentage then such Party shall be treated for the purposes of the Security Documents (and payments made thereunder) as if its applicable passthru percentage is 100%,
- until (in each case) such time as the Party in question provides the requested confirmation, forms, documentation or other information.
- 6.12 **Gross-up in the event of a FATCA Deduction – Borrowers**
- 6.12.1 If a Borrower is required to make a FATCA Deduction, that Borrower shall make that FATCA Deduction and any payment required in connection with that FATCA Deduction within the time allowed and in the minimum amount required by FATCA;
- 6.12.2 if a FATCA Deduction is required to be made by a Borrower, the amount of the payment due from that Borrower shall be increased to an amount which (after making any FATCA Deduction) leaves an amount equal to the payment which would have been due if no FATCA Deduction had been required;
- 6.12.3 each Borrower 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 a FATCA Deduction) notify the Party to whom it is making the payment and, in addition, shall notify the Agent and the Agent shall notify the other Banks; and
- 6.12.4 within thirty days of making either a FATCA Deduction or any payment required in connection with that FATCA Deduction, the relevant Borrower shall deliver to the Agent evidence satisfactory to the Agent that the FATCA Deduction has been made or (as applicable) any appropriate payment paid to the relevant governmental or taxation authority.

7 **REPRESENTATIONS AND WARRANTIES**

7.1 **Continuing representations and warranties**

The Borrowers represent and warrant to each Bank that:

7.1.1 Due incorporation

each of the Security Parties is duly incorporated and validly existing in good standing, under the laws of its respective country of incorporation, in each case, as a corporation and has power to carry on its respective businesses as it is now being conducted and to own their respective property and other assets to which it has unencumbered legal and beneficial title except as disclosed to the Agent in writing;

7.1.2 Corporate power

each of the Security Parties has power to execute, deliver and perform its obligations and, as the case may be, to exercise its rights under the Underlying Documents and the Security Documents to which it is a party; all necessary corporate, shareholder and other action has been taken to authorise the execution, delivery and on the execution of the Security Documents performance of the same and no limitation on the powers of the Borrowers to borrow or any other Security Party to howsoever incur liability and/or to provide or grant security will be exceeded as a result of borrowing any part of the Loan;

7.1.3 Binding obligations

the Underlying Documents and the Security Documents, when executed, will constitute valid and legally binding obligations of the relevant Security Parties and the Managers enforceable in accordance with their respective terms;

7.1.4 No conflict with other obligations

the execution and delivery of, the performance of their obligations under, and compliance with the provisions of, the Underlying Documents and the Security Documents by the relevant Security Parties and the Managers will not (i) contravene any existing applicable law, statute, rule or regulation or any judgment, decree or permit to which any Security Party or other member of the Group or any Manager is subject, (ii) conflict with, or result in any breach of any of the terms of, or constitute a default under, any agreement or other instrument to which any Security Party or any other member of the Group or any Manager is a party or is subject or by which it or any of its property is bound, (iii) contravene or conflict with any provision of the constitutional documents of any Security Party, any Manager or (iv) result in the creation or imposition of, or oblige any of the Security Parties or the Managers to create, any Encumbrance (other than a Permitted Encumbrance) on any of the undertakings, assets, rights or revenues of any of the Security Parties or the Managers;

- 7.1.5 No default
no Default has occurred;
- 7.1.6 No litigation or judgments
no Proceedings are current, pending or, to the knowledge of the officers of either Borrower, threatened against any of the Security Parties, the Managers or any other Group Members or their assets which could have a Material Adverse Effect and there exist no judgments, orders, injunctions which would materially affect the obligations of the Security Parties, the Managers under the Security Documents;
- 7.1.7 No filings required
except for the registration of the Mortgages in the relevant register under the laws of the relevant Flag State through the relevant Registry, it is not necessary to ensure the legality, validity, enforceability or admissibility in evidence of any of the Underlying Documents or any of the Security Documents that they or any other instrument be notarised, filed, recorded, registered or enrolled in any court, public office or elsewhere in any Pertinent Jurisdiction or that any stamp, registration or similar tax or charge be paid in any Pertinent Jurisdiction on or in relation to any of the Underlying Documents or the Security Documents and each of the Underlying Documents and the Security Documents is in proper form for its enforcement in the courts of each Pertinent Jurisdiction;
- 7.1.8 Required Authorisations and legal compliance
all Required Authorisations have been obtained or effected and are in full force and effect and none of the Security Party or the Managers has in any way contravened any applicable law, statute, rule or regulation (including all such as relate to Money Laundering);
- 7.1.9 Choice of law
the choice of English law to govern the Underlying Documents and the Security Documents (other than the Mortgages, the Earnings Account Pledges and the Retention Account Pledge), the choice of the law of the Flag State to govern the Mortgages, the choice of French law to govern the Earnings Account Pledges and the Retention Account Pledge and the submissions by the Security Parties and the Managers to the jurisdiction of the English courts and the obligations of such Security Parties and the Managers associated therewith, are valid and binding;
- 7.1.10 No immunity
no Security Party nor any of their assets is entitled to immunity on the grounds of sovereignty or otherwise from any Proceedings whatsoever;
- 7.1.11 Financial statements correct and complete
the latest audited and unaudited consolidated financial statements of the Corporate Guarantor in respect of the relevant financial year as delivered to the Agent present or will present fairly and accurately the financial position of the Corporate Guarantor and the consolidated financial

position of the Group as at the date thereof and the results of the operations of the Corporate Guarantor and the consolidated results of the operations of the Group for the financial year ended on such date and, as at such date, neither the Corporate Guarantor nor any of its subsidiaries have any significant liabilities (contingent or otherwise) or any unrealised or anticipated losses which are not disclosed by, or reserved against or provided for in, such financial statements;

7.1.12 Pari passu

the obligations of the Borrowers under this Agreement are direct, general and unconditional obligations of the Borrowers and rank at least pari passu with all other present and future unsecured and unsubordinated Indebtedness of the Borrowers except for obligations which are mandatorily preferred by operation of law and not by contract;

7.1.13 Information/ Material Adverse Effect

all information, whatsoever provided by any Security Party to the Agent in connection with the negotiation and preparation of the Security Documents or otherwise provided hereafter in relation to, or pursuant to this Agreement is, or will be, true and accurate in all material respects and not misleading, does or will not omit material facts and all reasonable enquiries have been, or shall have been, made to verify the facts and statements contained therein and there has not occurred any event which could have a Material Adverse Effect on any Security Party since such information was provided to the Agent; there are, or will be, no other facts the omission of which would make any fact or statement therein misleading;

7.1.14 No withholding Taxes

no Taxes anywhere are imposed whatsoever by withholding or otherwise on any payment to be made by any Security Party under the Underlying Documents or the Security Documents to which such Security Party is or is to be a party or are imposed on or by virtue of the execution or delivery by the Security Parties of the Underlying Documents or the Security Documents or any other document or instrument to be executed or delivered under any of the Security Documents;

7.1.15 Use of proceeds

the Borrowers shall apply the Loan only for the purposes specified in clauses 1.1 and 2.1;

7.1.16 The Mortgaged Vessels

throughout the Facility Period, each Mortgaged Vessel will be :

- (a) in the absolute sole, legal and beneficial ownership of the relevant Owner;
- (b) registered through the offices of the relevant Registry as a ship under the laws and flag of the relevant Flag State;
- (c) in compliance with the ISM Code and the ISPS Code and operationally seaworthy and in every way fit for service;
- (d) in good and sea-worthy and cargo-worthy condition; and
- (e) classed with the relevant Classification free of all overdue requirements and recommendations of the relevant Classification Society;

7.1.17 Mortgaged Vessels' employment

except with the prior written consent of the Majority Lenders, there will not be any agreement or arrangement in respect of the employment of either Mortgaged Vessel whereby the Earnings of either Mortgaged Vessel may be shared howsoever with any other person except (a) for customary profit sharing arrangements under a charterparty or if (i) the aggregate Earnings of the Mortgaged Vessels are sufficient to cover the aggregate of the Borrowers' payment obligations under this Agreement and vessel operating expenses as they fall due and (ii) no Event of Default has occurred which is continuing;

7.1.18 Freedom from Encumbrances

neither Mortgaged Vessel nor its Earnings, Insurances or Requisition Compensation nor the Earnings Accounts, the Retention Account nor any Extended Employment Contract in respect of such Mortgaged Vessel nor any other properties or rights which are, or are to be, the subject of any of the Security Documents nor any part thereof will be subject to any Encumbrance except Permitted Encumbrances or Permitted Liens;

7.1.19 Environmental Matters

except as may already have been disclosed by the Borrowers in writing to, and acknowledged and accepted in writing by, the Agent:

- (a) the Borrowers and, to the best of the Borrowers' knowledge and belief (having made due enquiry), their respective Environmental Affiliates, have complied with the provisions of all Environmental Laws;
- (b) the Borrowers and, to the best of the Borrowers' knowledge and belief (having made due enquiry), their respective Environmental Affiliates have obtained all Environmental Approvals and are in compliance with all such Environmental Approvals;
- (c) no Environmental Claim has been made or threatened or pending against either Borrower, or, to the best of the Borrowers' knowledge and belief (having made due enquiry), any of their respective Environmental Affiliates; and
- (d) there has been no Environmental Incident;

7.1.20 ISM and ISPS Code

each of the Borrowers has complied with and continues to comply and has procured that the relevant Manager has complied with and continues to comply with the ISM Code, the ISPS Code and all other statutory and other requirements relative to its business and in particular each Borrower or the relevant Manager has obtained and maintains a valid DOC and SMC for each Mortgaged Vessels and that it and the relevant Manager has implemented and continues to implement an ISM SMS;

7.1.21 Copies true and complete

the Certified Copies or originals of the Underlying Documents delivered or to be delivered to the Agent pursuant to clause 8.1 are, or will when delivered be, true and complete copies or, as the case may be, originals of such documents; and such documents constitute valid and binding obligations of the parties thereto enforceable in accordance with their respective terms and there have been no amendments or variations thereof or defaults thereunder;

- 7.1.22 Ownership of Borrowers
all the shares in each Borrower are legally and beneficially owned by the Shareholder;
- 7.1.23 Beneficiary of Loan
the Borrowers are the ultimate beneficiaries of the Loan;
- 7.1.24 Indebtedness
no Security Party has incurred any Indebtedness save under this Agreement or as otherwise disclosed in writing to, and acknowledged and accepted in writing by, the Agent or as disclosed in the Group's public filings;
- 7.1.25 Filings
each of the Corporate Guarantor and the Borrowers has filed all tax and other fiscal returns required to be filed by any tax authority to which it is subject or have timely received extensions from the relevant authority habilitated to provide such extension;
- 7.1.26 Office
no Borrower has an office in England or the USA;
- 7.1.27 Sanctions
- (a) no Borrower nor any Security Party nor any Manager:
 - (i) is a Sanctions Restricted Person;
 - (ii) owns or controls directly or indirectly a Sanctions Restricted Person; or
 - (iii) has a Sanctions Restricted 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 to the knowledge of the Borrowers (after reasonable enquiry) indirectly, to or for the benefit of a Sanctions Restricted Person contrary to Sanctions or for transactions in a Sanctions Restricted Jurisdiction nor shall they be otherwise directly or indirectly, applied in a manner or for a purpose prohibited by Sanctions; and
 - (c) each Borrower and each other Security Party and each Managers are in compliance with Sanctions;
- 7.1.28 Insolvency
no Borrower is unable or has admitted inability to pay its debts as they fall due, has suspended making payments on any of its debts or has announced an intention to do so, is or has become insolvent; or, save as disclosed to the Lenders prior to the Execution Date, or has suffered the declaration of a moratorium in respect of any of its Indebtedness;

- 7.1.29 No business
- no Borrower has undertaken any business or employed any person or incurred any obligations in respect of any pension scheme, save in respect of the Master, officers and crew of the Vessel owned by it;
- 7.1.30 FATCA
- none of the Security Parties is a FATCA FFI or a US Tax Obligor;
- 7.1.31 Manager
- each of the Managers is fit and proper commercial and technical manager of the Vessels with the sufficient and fully trained personnel, experience and ability to perform its obligations in accordance with all applicable laws and regulations and in accordance with first class international ship management practice;
- 7.1.32 Compliance policies and procedures
- each Borrower, the Corporate Guarantor and each other Security Party or Group Member, each of the Managers has in place and effect policies and procedures designed to promote material compliance by each of them, their subsidiaries and their respective directors, managers, officers, employees and agents with Sanctions and Anti-Corruption Laws, anti-Money Laundering laws and anti-terrorism financing laws;
- 7.1.33 Anti-Money Laundering
- in relation to the borrowing by the Borrowers of the Loan, the performance and discharge of their obligations and liabilities under the Security Documents, and the transactions and other arrangements affected or contemplated by the Security Documents to which either Borrower is a party, each Borrower confirms that:
- (a) it is acting for its own account;
 - (b) it will use the proceeds of the Loan for its own benefit, under its full responsibility and exclusively for the purposes specified in this Agreement; and
 - (c) the foregoing will not involve or lead to a contravention of any law, official requirement or other regulatory measure or procedure implemented to combat Money Laundering and comparable United States federal and state laws, including without limitation the USA Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the “**Patriot Act**”) and the USA Bank Secrecy Act of 1970 (the “**Bank Secrecy Act**”); and

7.2 **Repetition of representations and warranties**

On each day throughout the Facility Period, the Borrowers shall be deemed to repeat the representations and warranties in clause 7 updated mutatis mutandis as if made with reference to the facts and circumstances existing on such day.

8 **UNDERTAKINGS**

8.1 **General**

Each Borrower undertakes with each Bank that, from the Execution Date until the end of the Facility Period, it will:

8.1.1 **Notice of Default and Proceedings**

promptly inform the Agent of:

- (a) any Default and of any other circumstances or occurrence which might adversely affect the ability of any Security Party or any Manager to perform its obligations under any of the Security Documents;
- (b) as soon as the same is instituted or threatened, details of any Proceedings involving any Security Party or any Manager which could have a Material Adverse Effect on that Security Party and/or the operation of any of the Vessels (including, but not limited to any Total Loss of a Vessel or the occurrence of any Environmental Incident);
- (c) to the extent permitted by law, details of any claim, action, suit, proceedings or investigation against it with respect to Sanctions by any Sanctions Authority,

and will from time to time, if so requested by the Agent, confirm to the Agent in writing that, save as otherwise stated in such confirmation, no Default has occurred and is continuing and no such Proceedings are on foot or threatened and no such claim, action, suit, proceedings or investigation with respect to Sanctions are on foot or threatened;

8.1.2 **Authorisation**

obtain or cause to be obtained, maintain in full force and effect and comply fully with all Required Authorisations, provide the Agent with Certified Copies of the same and do, or cause to be done, all other acts and things which may from time to time be necessary or desirable under any applicable law (whether or not in the Pertinent Jurisdiction) for the continued due performance of all the obligations of the Security Parties under each of the Security Documents;

8.1.3 **Corporate Existence/Ownership**

ensure that each Security Party maintains its corporate existence as a body corporate duly organised and validly existing and in good standing under the laws of the Pertinent Jurisdiction and ensure that each Borrower is owned and controlled, directly or through other companies, by the Corporate Guarantor;

- 8.1.4 Use of proceeds
use the Loan exclusively for the purposes specified in clauses 1.1 and 2.1;
- 8.1.5 Pari passu
ensure that their obligations under this Agreement shall at all times rank at least pari passu with all their other present and future unsecured and unsubordinated Indebtedness with the exception of any obligations which are mandatorily preferred by law and not by contract;
- 8.1.6 Financial statements
send to the Agent (or procure that is sent):
- (a) as soon as possible, but in no event later than 180 days after the end of each of its Financial Years, annual audited (prepared in accordance with US GAAP by a firm of accountants acceptable to the Agent) consolidated balance sheet and profit and loss accounts of the Corporate Guarantor and all companies which are owned, directly or indirectly, or controlled by it (commencing with the Financial Year ending 31 December 2020); and
 - (b) as soon as possible, but in no event later than 90 days after the end of each financial quarter in each of its Financial Years, the Corporate Guarantor's unaudited consolidated balance sheet and profit and loss accounts for that financial quarter certified as to their correctness by its chief financial officer (commencing with the financial quarter ending 30 September 2020);
- 8.1.7 Compliance Certificates
deliver to the Agent together with each set of financial statements delivered pursuant to clauses 8.1.6 (b) in respect of the financial quarter ending on 30 June and 31 December each year, a Compliance Certificate together with such supporting information as the Agent may require, and each Compliance Certificate shall, amongst other things, set out (in reasonable detail) computations as to compliance with the relevant clauses of this Agreement;
- 8.1.8 Provision of further information
provide the Agent, and procure that the Corporate Guarantor provides the Agent, with such financial or other information concerning the Borrowers, the Corporate Guarantor, the other Group Members and their respective affairs, activities, financial standing, Indebtedness and operations and the performance of the Mortgaged Vessels and any other ship owned by any Group Member as the Agent or any Lender (acting through the Agent) may from time to time reasonably require and upon request therefor provide to the Agent information of any significant nature in respect of a Borrower and/or any other Group Member including, but not limited to, details of any loans borrowed or repaid by any of them, the purchase or sale of any substantial assets (including ships) by any of them and/or the restructuring of any loan of which any of them is a borrower, and all other documentation and information as the Agent or any Lender (acting through the Agent) may from time to time require in order to comply with its, and all other relevant, know-your-customer regulations;

8.1.9 Obligations under Security Documents

duly and punctually perform each of the obligations expressed to be imposed or assumed by them under the Security Documents and Underlying Documents and will procure that each of the other Security Parties and the Managers will, duly and punctually perform each of the obligations expressed to be assumed by it under the Security Documents and the Underlying Documents to which it is a party;

8.1.10 Compliance with ISM Code

comply with, and will procure that any Operator will comply with, and ensure that the Mortgaged Vessels and any Operator comply with the requirements of the ISM Code, including (but not limited to) the maintenance and renewal of valid certificates pursuant thereto throughout the Security Period (as defined in the Mortgages);

8.1.11 Withdrawal of DOC and SMC

immediately inform the Agent if there is any actual withdrawal of their or any Operator's DOC or the SMC of either Mortgaged Vessel;

8.1.12 Issuance of DOC and SMC

and will procure that any Operator will promptly inform the Agent of the receipt by either Borrower or any Operator of notification that its application for a DOC or any application for an SMC for either Mortgaged Vessel has been refused;

8.1.13 ISPS Code Compliance

and will procure that any Manager or any Operator will:

- (a) maintain at all times a valid and current ISSC in respect of each Mortgaged Vessel;
- (b) immediately notify the Agent in writing of any actual or threatened withdrawal, suspension, cancellation or modification of the ISSC in respect of a Mortgaged Vessel; and
- (c) procure that each Mortgaged Vessel will comply at all times with the ISPS Code;

8.1.14 Compliance with Laws, Sanctions, Anti-Corruption Laws and payment of taxes

- (a) and shall procure that each Manager (other than the Third Party Manager) will, comply with all relevant Environmental Laws, laws, statutes and regulations (including, but not limited to, laws relating to any trading prohibition imposed by the Flag State, the country of incorporation of the Borrowers or the country of nationality of any crew member of either Vessel by which such Borrower is bound) where failure to do so would have or be likely to have a Material Adverse Effect, Sanctions, Anti-Corruption Laws, anti-terrorism financing laws and pay all taxes for which it is liable as they fall due provided, however, that the Borrowers shall not be required to pay and discharge, or cause to be paid and discharged, any such tax, so long as the legality thereof has been contested by them in good faith and by appropriate proceedings or other acts and they shall have set aside on their books adequate reserves with respect thereof; and

- (b) without limiting paragraph (a) above, not employ either Vessel 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 and all Environmental Laws which has or is likely to have a Material Adverse Effect, Sanctions, Anti-Corruption Laws and anti-terrorism financing laws;

8.1.15 Charters etc.

- (i) deliver to the Agent a Certified Copy of each Extended Employment Contract upon its execution, (ii) forthwith on the Agent's request execute (a) a Charter Assignment in respect thereof and (b) any notice of assignment required in connection therewith and use reasonable efforts to procure the acknowledgement of any such notice of assignment by the relevant charterer (provided that any failure to procure the same shall not constitute an Event of Default) and (iii) pay all legal and other costs incurred by the Agent in connection with any such Charter Assignments, forthwith following the Agent's demand;

8.1.16 Financial Covenants of the Group

procure that, throughout the Facility Period and as evidenced by the financial statements delivered to the Agent pursuant to 8.1.6 (b) in respect of the financial quarter ending on 30 June and 31 December each year:

- (a) the Liquidity of the Group shall not be less than USD650,000 multiplied by the number of vessels owned by the Corporate Guarantor or any of its subsidiaries;
- (b) the Net Total Debt divided by the Total Assets (adjusted (i) for market values of vessels owned and (ii) by deducting (A) the value of the assets relating to operating leases as defined under rule ASC 842 of the US GAAP and (B) cash (which shall have the meaning given thereto under US GAAP meaning both restricted and freely available cash) shall be less than 75%;
- (c) the ratio of EBITDA to Interest Expense shall at be at least 2 to 1; and
- (d) the Net Worth shall at all times be equal to or more than USD135,000,000;

8.1.17 Indebtedness

not incur any Indebtedness other than (i) in the ordinary course of trading the Vessels or (ii) with the prior written consent of the Lenders;

8.1.18 Subordination

ensure that all Indebtedness of either Borrower to its shareholders or to any other Group Member or to any other party (other than incurred (i) in the ordinary course of trading the Vessels or (ii) with the prior written consent of the Lenders) is fully subordinated to the Loan (and will procure that such subordination is acknowledged and agreed by the creditor of such Indebtedness), and to subordinate to the Loan any Indebtedness issued to a Borrower by the Corporate Guarantor, all in a form acceptable to the Agent (acting on the instructions of the Majority Lenders); and

8.1.19 Sanctions

- (a) without limiting clause 8.1.14, procure that:
 - (i) no Vessel is used by or for the benefit of a Sanctions Restricted Person contrary to Sanctions;
 - (ii) no Vessel is used in trading in any Sanctions Restricted Jurisdiction or in any manner contrary to Sanctions;
 - (iii) no Vessel trades in any manner which would trigger the operation of any sanctions limitation or exclusion clause (or similar) in the Insurances;
- (b) not fund all or part of any payment under the Loan out of proceeds derived directly or to their knowledge (after reasonable enquiry) indirectly from any activity or transaction with a Sanctions Restricted Person, contrary to Sanctions or in a Sanctions Restricted Jurisdiction or which would otherwise cause any party to be in breach of any Sanctions;
- (c) procure that no proceeds to their knowledge (after reasonable enquiry) from activities or business with a Sanctions Restricted Person contrary to Sanctions or in a Sanctions Restricted Jurisdiction are credited to any Earnings Account;
- (d) ensure, and shall procure that each Security Party, each of the Managers will ensure, that:
 - (i) it is not a Sanctions Restricted Person;
 - (ii) it does not directly or, to its knowledge (after reasonable enquiry), indirectly hold an ownership interest in or control a Sanctions Restricted Person;
 - (iii) it is not acting directly or, to its knowledge (after reasonable enquiry), indirectly for the benefit of a Sanctions Restricted Person; and
 - (iv) no proceeds of the Loan shall be made available, to its knowledge (after thorough enquiry), directly or indirectly, to or for the benefit of a Sanctions Restricted Person or otherwise shall be directly or indirectly applied in a manner or for a purpose prohibited by Sanctions.

8.1.20 Delivery of reports

deliver to the Agent upon request as many Certified Copies as the Agent may reasonably require of every report, circular, notice or like document issued by any Security Party to its shareholders or creditors generally, unless the contents of such report, circular, notice or like document has already been disclosed in filings made with the US Securities and Exchange Commission;

8.1.21 Anti-Money Laundering

comply, and cause each of its subsidiaries to comply, with any applicable law, official requirement or other regulatory measure or procedure implemented to combat Money Laundering and comparable United States federal and state laws, including without limitation the PATRIOT Act and the Bank Secrecy Act;

8.1.22 Dividends

Provided that (i) no Event of Default has occurred or shall be caused thereby and (ii) no default (howsoever thereunder defined) has occurred or shall be caused thereby in respect of any Indebtedness of the Corporate Guarantor, the Corporate Guarantor may declare or pay dividends or distribute (in cash or in kind) any of its present or future assets, undertakings, rights or revenues.

8.2 **Security value**

8.2.1 Security shortfall

If at any time the Security Value shall be less than the Required Security Amount, the Agent (acting on the instructions of the Majority Lenders) shall give notice to the Borrowers requiring that such deficiency be remedied and then the Borrowers must either:

- (a) prepay within a period of thirty (30) days of the date of receipt by the Borrowers of the Agent's said notice such part of the Loan as will result in the Security Value after such prepayment (taking into account any other repayment of the Loan made between the date of the notice and the date of such prepayment) being equal to or higher than the Required Security Amount; or
- (b) within thirty (30) days of the date of receipt by the Borrowers of the Agent's said notice provide to the satisfaction of the Agent such further security for the Loan as shall be acceptable to the Majority Lenders having a value for security purposes (as determined by the Agent in its absolute discretion) at the date upon which such further security shall be constituted which, when added to the Security Value, shall not be less than the Required Security Amount as at such date.

The provisions of clauses 4.7 and 4.8 shall apply to prepayments under clause 8.2.1(a) provided that the Agent shall apply such prepayments in reduction of the repayment instalments under clause 4.1 (including the Balloon Instalment) pro rata (or in such other manner and order as shall be agreed between the Borrowers and the Lenders at the time of such prepayment) and the amounts of the Loan prepaid hereunder shall not be available to be re-borrowed.

For the purpose of determining compliance of the Security Value with the Required Security Amount in accordance with this clause, the Security Value shall be tested against the Required Security Amount as at 30 June and 30 December each year, commencing on 31 December 2020, and using the Valuation of the Vessels as at the relevant date in accordance with clause 8.2.2.

8.2.2 Valuation of Mortgaged Vessels

Each Mortgaged Vessel shall, for the purposes of this Agreement, be valued in USD by taking the arithmetic mean of two valuations, each prepared by an Approved Broker appointed by the Borrowers, however the Borrowers may provide the Agent with one valuation only prepared by an Approved Broker but subject to the Agent's approval in its sole discretion.

Such valuations (or such valuation as the case may be) shall be addressed to the Agent and shall be made without physical inspection, and on the basis of a sale for prompt delivery for cash at arms' length, on normal commercial terms, as between a willing buyer and a willing seller without taking into account the benefit or burden of any charterparty or other engagement concerning the relevant Mortgaged Vessel and shall be dated no more than 30 days prior to the date the Valuation Amount is required to be determined for the purposes of this Agreement.

Valuations shall be obtained:

- (a) on 30 June and 31 December each year, commencing on 31 December 2020;
- (b) on the date of each prepayment made under clause 4.3 or clause 4.5; and
- (c) (in addition to (a) above) at any other time as the Agent (acting on the reasonable instructions of the Majority Lenders) shall require.

The valuation of each Mortgaged Vessel determined in accordance with the provisions of this clause 8.2.2 shall be binding upon the Parties until such time as any further such valuation shall be obtained.

8.2.3 Information

The Borrowers undertake with the Banks to supply to the Agent and to the Approved Brokers such information concerning the relevant Mortgaged Vessel and its condition as such shipbrokers may require for the purpose of determining any Valuation Amount.

8.2.4 Costs

All costs in connection with (a) the obtaining and any determining of any Valuation Amount pursuant to clause 8.2.2(a) and 8.2.2(b), (b) valuations obtained following the occurrence of an Event of Default which is continuing, unremedied and unwaived and (c) any valuation either of any additional security for the purposes of ascertaining the Security Value at any time or necessitated by the Borrowers electing to constitute additional security pursuant to clause 8.2.1(b), must be paid by the Borrowers. The costs of any other valuations shall be paid by the Lenders.

8.2.5 Valuation of additional security

For the purposes of this clause 8.2, the market value (i) of any additional security over a ship (other than the Vessels) shall be determined in accordance with clause 8.2.2 and (ii) of any other additional security provided or to be provided to the Banks or any of them shall be determined by the Agent after consultation with the Lenders and the Borrowers, provided that additional security in the form of cash in Dollars will be valued on a Dollar for Dollar basis.

8.2.6 Documents and evidence

In connection with any additional security provided in accordance with this clause 8.2, the Agent shall be entitled to receive (at the Borrowers' expense) such evidence and documents of the kind referred to in schedule 3 as may in the Agent's opinion be appropriate and such favourable legal opinions as the Agent shall in its absolute discretion require.

8.3 **Negative undertakings**

The Borrowers jointly and severally undertake with each Bank that, from the Execution Date until the end of the Facility Period, they will not, without the prior written consent of the Agent (acting on the reasonable instructions of the Majority Lenders):

8.3.1 Negative pledge

permit any Encumbrance (other than a Permitted Encumbrance) to subsist, arise or be created or extended over all or any part of their respective present or future undertakings, assets, rights or revenues to secure or prefer any present or future Indebtedness or other liability or obligation of any Group Member or any other person;

8.3.2 No merger or transfer

merge or consolidate with any other person or permit any change to the direct or indirect ownership of their shares from that existing at the Execution Date;

8.3.3 Disposals

sell, transfer, assign, create security or option over, pledge, pool, abandon, lend or otherwise dispose of or cease to exercise direct control over any part of their present or future undertaking, assets, rights or revenues (otherwise than a transfer, sale or disposal of a Mortgage Vessel or by transfers, sales or disposals for full consideration in the ordinary course of trading) whether by one or a series of transactions related or not;

8.3.4 Other business or manager

undertake any business other than the ownership and operation of the Vessels or employ anyone other than the relevant Manager as, respectively, commercial and technical manager of the Vessels;

8.3.5 Acquisitions or investments

acquire any further assets other than the Vessels and rights arising under contracts entered into by or on behalf of the Borrowers in the ordinary course of their businesses of owning, operating and chartering the Vessels, or make any expenditures or financial investments other than expenditures or investments related to the ordinary operation and maintenance of the Vessels, compliance with laws and regulatory requirements and normal capital expenditures;

8.3.6 Other obligations

incur any obligations (to any Group Member or otherwise) except for obligations arising under the Underlying Documents or the Security Documents or contracts entered into (or in the case of any obligation to any Group Member, reasonably entered into) in the ordinary course of their business of owning, operating and chartering the Vessels (and for the purposes of this Agreement any obligations incurred under the Management Agreements are deemed to have been reasonably incurred in the ordinary course of business);

8.3.7 No borrowing

incur any Borrowed Money except for Borrowed Money pursuant to the Security Documents or as otherwise disclosed in writing by the Borrowers to, and acknowledged and accepted in writing by, the Agent on or prior to the Execution Date other than Borrowed Money borrowed from its Shareholder or any other member of the Group which is fully subordinated and assigned in favour of the Security Trustee on such terms and conditions as the as the Agent and the Majority Lenders may agree in their sole discretion;

8.3.8 Repayment of borrowings

repay or prepay the principal of, or pay interest on or any other sum in connection with any of their Borrowed Money except for Borrowed Money pursuant to the Security Documents or as otherwise disclosed in writing by the Borrowers to, and acknowledged and accepted in writing by, the Agent on or prior to the Execution Date;

8.3.9 Guarantees

issue any guarantees or otherwise become directly or contingently liable or give security or quasi security for the obligations of any person, firm, or corporation except pursuant to the Security Documents and except for (i) guarantees from time to time required in the ordinary course of business and/or by any protection and indemnity or war risks association with which a Vessel is entered, guarantees required to procure the release of such Vessel from any arrest, detention, attachment or levy or guarantees required for the salvage of a Vessel and (ii) such other guarantees to which the Agent and the Majority Lenders shall have consented in writing;

8.3.10 Loans

make any loans or grant any credit (save for normal trade credit in the ordinary course of business) to any person or agree to do so;

8.3.11 Sureties

permit any Indebtedness of either Borrower to any person (other than the Banks pursuant to the Security Documents) to be guaranteed by any person (except for guarantees from time to time required in the ordinary course of business and in the ordinary course by any protection and indemnity or war risks association with which a Vessel is entered, guarantees required to procure the release of such Vessel from any arrest, detention, attachment or levy or guarantees or undertakings required for the salvage of a Vessel);

8.3.12 Subsidiaries

form or acquire any Subsidiaries;

8.3.13 Change of name, manager, flag or class

change the name, Manager (other than as contemplated by the definition of Manager), flag, Classification or Classification Society of either Vessel (other than to another Classification Society or flag of a Flag State and with prior notification to the Agent) without the prior consent of the Agent, such consent not to be unreasonably withheld or delayed (provided that the Borrowers shall notify the Agent no less than 30 days, and enter into any documentation required by, and satisfactory to, the Lenders before any change of flag);

8.3.14 Charters

without the prior written consent of the Agent, such consent not to be unreasonably withheld, let or agree to let either Vessel:

- (i) on demise charter for any period; or
- (ii) by any time or consecutive voyage charter for a term which exceeds or which by virtue of any optional extensions therein contained may exceed twenty four (24) months' duration; or
- (iii) on terms whereby more than two (2) months' hire (or the equivalent) is payable in advance; or
- (iv) below a fair and reasonable arms-length rate obtainable at the time when the relevant Vessel is fixed; or
- (v) enter in any pool under a pool arrangement providing for a cancellation notice in excess of 120 days;

8.3.15 Nuclear waste

permit either Vessel to carry nuclear waste or radioactive material;

8.3.16 Change in constitutional documents

amend or vary its constitutional documents;

8.3.17 Employees

employ any person except the Master, officers and crew of the Vessel owned by it;

8.3.18 FATCA

become a FATCA FFI or a US Tax Obligor and shall procure that no Security Party shall do so;

8.3.19 Anti-corruption law

(and shall procure that none of the other Security Parties or Group Members will) directly or indirectly use the proceeds of the Loan for any purpose which would breach any Anti-Corruption Laws or anti-terrorism financing laws;

8.3.20 Accounts

open or maintain any account with any bank or financial institution other than the Earnings Accounts and the Retention Account.

8.4 **Insurances undertakings**

Each Borrower covenants with each Bank, and undertakes from the Execution Date until the end of the Facility Period, in respect of the Mortgaged Vessel owned by it:

(a) **Insured risks, amounts and terms**

to insure and keep such Mortgaged Vessel insured free of cost and expense to the Banks and in the sole name of the relevant Owner or, if so required by the Agent, in the joint names of the relevant Owner and the Security Trustee (but without liability on the part of the Security Trustee for premiums or calls):

- (i) against fire and usual marine risks (including increased value, excess risks, freight interest and hull interest) and war risks, including the London Blocking and Trapping Addendum or similar arrangement, on an agreed value basis, in such amounts (but not in any event less than the greater of the market value of such Mortgaged Vessel for the time being (as shall be determined by the Agent in accordance with clause 8.2.2) and such amount as when added to the insurance cover on the other Mortgaged Vessels, is equal to one hundred and ten per cent (110%) of the Loan, and upon such terms as shall from time to time be approved in writing by the Agent;
- (ii) against protection and indemnity risks (including pollution risks for the highest amount in respect of which cover is or may become available for ships of the same type, size, age and flag as such Mortgaged Vessel (for the time being USD1,000,000,000) and a freight, demurrage and defence cover) for the full value and tonnage of such Mortgaged Vessel (as approved in writing by the Agent) and upon such terms as shall from time to time be approved in writing by the Agent;
- (iii) if and when so requested by the Agent, against political risks on such terms and in such amounts as shall from time to time be approved in writing by the Agent and as shall be in line with market practice prevailing at the time and in relation to the trading of such Mortgaged Vessel; and

(iv) in respect of such other matters of whatsoever nature and howsoever arising in respect of which insurance would be maintained by a prudent owner of a vessel of the same age and type as such Mortgaged Vessel, in accordance with current industry practice and taking into account that Mortgage Vessel's trading area,

and to pay to the Security Trustee all costs, premiums and expenses reasonably paid or incurred by the Security Trustee (as evidenced by copies of invoices for such costs, premiums and expenses) of (aa) any mortgagee's interest insurance (including mortgagee's interest insurance ("MII") - additional perils (pollution) ("MAP") coverage) which the Security Trustee may from time to time effect in respect of such Mortgaged Vessel and the other Mortgaged Vessels upon such terms and in such amounts (being in any event no less than one hundred and ten per cent (110%) of the Loan in respect of MII coverage and 110% of the Loan in respect of MAP coverage) as it shall deem desirable; and (bb) any other insurance cover which the Security Trustee may from time to time effect in respect of such Mortgaged Vessel and/or in respect of its interest and potential third party liability as mortgagee of such Mortgaged Vessel as the Security Trustee shall deem desirable having regard to any limitations in respect of amount or extent of cover which may from time to time be applicable to any of the other insurances referred to in this clause 8.4(a);

(b) Approved Insurance Brokers, insurers and associations

to effect the insurances aforesaid in such currency as the Agent may approve and through the Approved Insurance Brokers and with such insurance companies and/or underwriters as shall from time to time be approved in writing by the Agent; provided however that the insurances against war risks and protection and indemnity risks may be effected by the entry of such Mortgaged Vessel with such war risks and protection and indemnity associations which is a member of the International Group of P&I Clubs as shall from time to time be approved in writing by the Agent;

(c) Fleet liens, set-off and cancellation

if any of the insurances referred to in clause 8.4(a) form part of a fleet cover, to procure that the Approved Insurance Brokers shall undertake to the Security Trustee that they shall neither set off against any claims in respect of such Mortgaged Vessel any premiums due in respect of any vessel under such fleet cover which is not a Mortgaged Vessel or any premiums due for other insurances, nor cancel the insurance for reason of non-payment of premiums for any vessel under such fleet cover which is not a Mortgaged Vessel or of premiums for such other insurances, and shall undertake to issue a separate policy in respect of such Mortgaged Vessel if and when so requested by the Agent;

(d) Payment of premiums and calls

punctually to pay all premiums, calls, contributions or other sums payable in respect of all such insurances and to produce all relevant receipts or other evidence of payment when so required by the Agent;

- (e) **Renewal**
- (i) before the expiry of any obligatory insurance effected by it
- (A) notify the Agent of the brokers (or other insurers) and any protection and indemnity or war risks association through or with whom that Security Party proposes to renew that obligatory insurance and of the proposed terms of renewal; and
- (B) obtain the Agent's approval to the matters referred to in paragraph (A);
- (ii) as soon as practicable but in any event before the expiry of any obligatory insurance effected by it, renew that obligatory insurance in accordance with the Agent's approval pursuant to paragraph (i); and
- (iii) procure that the approved brokers and/or the war risks and protection and indemnity associations with which such a renewal is effected shall promptly after the renewal notify the Agent in writing of the terms and conditions of the renewal:
- (f) **Guarantees**
- to arrange for the execution and delivery of such guarantees or indemnities as may from time to time be required by any protection and indemnity or war risks association;
- (g) **Hull policy documents, notices, loss payable clauses and brokers' undertakings**
- to deposit with the Approved Insurance Brokers (or procure the deposit of) all slips, cover notes, policies, certificates of entry or other instruments of insurance from time to time issued in connection with such of the insurances referred to in clause 8.4(a) as are effected through the Approved Insurance Brokers and procure that the interest of the Security Trustee shall be endorsed thereon by incorporation of the relevant Loss Payable Clause (and in particular on terms that the deductible in respect of the hull and machinery insurances shall not exceed the amount agreed upon and stated in the Loss Payable Clause) and, where the insurances have been assigned to the Security Trustee, by means of a Notice of Assignment of Insurances (signed by the relevant Owner and by any other assured who shall have assigned its interest in the insurances to the Security Trustee) and that the Agent shall be furnished with pro forma copies thereof and a letter or letters of undertaking from the Approved Insurance Brokers in such form as shall from time to time be required by the Agent;
- (h) **Associations' loss payable clauses, undertakings and certificates**
- to procure that any protection and indemnity and/or war risks associations in which such Mortgaged Vessel is for the time being entered shall endorse the relevant Loss Payable Clause on the relevant certificate of entry or policy and shall furnish the Agent with a copy of such certificate of entry or policy and a letter or letters of undertaking in such form as may from time to time be required by the Agent;

- (i) **Extent of cover and exclusions**
to take all necessary action and comply with all requirements which may from time to time be applicable to the Insurances (including, without limitation, the making of all requisite declarations within any prescribed time limits and the payment of any additional premiums or calls) so as to ensure that the Insurances are not made subject to any exclusions or qualifications to which the Agent have not given their prior written consent and are otherwise maintained on terms and conditions from time to time approved in writing by the Agent;
- (j) **Correspondence with brokers and associations**
to provide to the Agent, forthwith upon this request, copies of all material written communications between the relevant Owner and the Approved Insurance Brokers and approved war risks and protection and indemnity associations which relate to compliance with requirements from time to time applicable to the Insurances including, without limitation, all requisite declarations and payments of additional premiums or calls referred to in clause 8.4(d);
- (k) **Independent report**
if so requested by the Agent at any time after a material change in the Insurances of such Mortgage Vessel, but at the cost of the Borrowers, to furnish the Agent from time to time with a detailed report signed by an independent firm of marine insurance brokers appointed by the Agent dealing with the insurances maintained on such Mortgaged Vessel and stating the opinion of such firm as to the adequacy thereof;
- (l) **Collection of claims**
to do all things necessary and provide all documents, evidence and information to enable the Security Trustee to collect or recover any moneys which shall at any time become due in respect of the Insurances;
- (m) **Employment of Mortgaged Vessel**
not to employ such Mortgaged Vessel or suffer such Mortgaged Vessel to be employed otherwise than in conformity with the terms of the Insurances (including any warranties express or implied therein) without first obtaining the consent of the insurers to such employment and complying with such requirements such as to extra premium or otherwise as the insurers may prescribe;
- (n) **Application of recoveries**
to apply all sums receivable under the Insurances which are paid to the relevant Owner in accordance with the Loss Payable Clauses in repairing all damage and/or in discharging the liability in respect of which such sums shall have been received; and
- (o) **Named assureds**
not to permit the fire and usual marine risks and war risk insurances referred to in Clause 8.4(a) to be effected in the name of any other person (other than the Security Trustee) unless such person has to the satisfaction of the Agent executed a first priority assignment in favour of the Security Trustee of such person's interest in the Insurances of such Mortgaged Vessel in similar terms (mutatis mutandis) to the General Assignment relating thereto.

8.5 Vessel undertakings

Each Borrower undertakes with each Bank that, from the Execution Date until the end of the Facility Period, it will, in respect of the Mortgaged Vessel owned by it:

8.5.1 Ship's name and registration

not change the name of such Mortgaged Vessel and to keep such Mortgaged Vessel registered with the relevant Registry under the laws of its Flag State and not do or suffer to be done anything, or omit to do anything the doing or omission of which could or might result in such registration being forfeited or imperilled or which could or might result in such Mortgaged Vessel being required to be registered otherwise than with the relevant Registry and not register such Mortgaged Vessel or permit its registration under any other flag or at any other port other than the flag or port of a Flag State without the prior written consent of the Agent, such consent not to be unreasonably withheld or delayed (provided that the Borrowers shall notify the Agent no less than 30 days, and enter into any documentation required by, and satisfactory to, the Lenders before any change of flag);

8.5.2 Repair

keep such Mortgaged Vessel in a good and efficient state of repair and procure that all repairs to or replacement of any damaged, or lost parts of equipment are effected in such manner (both as regards workmanship and quality of materials) as not to diminish the value of such Mortgaged Vessel;

8.5.3 Modification; removal of parts; equipment owned by third parties

not without the prior written consent of the Agent to, or suffer any other person to:

- (a) make any modification to such Mortgaged Vessel in consequence of which her structure, type or performance characteristics could or might be materially altered or her value materially reduced; or
- (b) remove any material part of such Mortgaged Vessel or any equipment the value of which is such that its removal from such Mortgaged Vessel would materially reduce the value of such Mortgaged Vessel without replacing the same with equivalent parts or equipment which are owned by the relevant Owner free from Encumbrances; or
- (c) install on such Mortgaged Vessel any equipment owned by a third party which cannot be removed without causing material damage to the structure or fabric of such Mortgaged Vessel;

8.5.4 Maintenance of class; compliance with regulations

maintain the Classification as the class of such Mortgaged Vessel and to comply with and ensure that such Mortgaged Vessel at all times complies with the provisions of all relevant legislations and all regulations and requirements (statutory or otherwise) from time to time applicable to vessels registered under the laws and flag of the Flag State or otherwise applicable to such Mortgaged Vessel and it shall procure that the relevant Classification Society shall make available to the Agent upon its request such information and documents in respect of such Mortgaged Vessel as are maintained in the records of such Classification Society;

8.5.5 Surveys

submit such Mortgaged Vessel to continuous surveys and such periodical or other surveys as may be required for classification purposes and if so required to supply to the Agent copies of all survey reports issued in respect thereof;

8.5.6 Inspection

permit the Agent, upon receipt of at least 15 days written notice, by surveyors or other persons appointed by it for such purpose, to board such Mortgaged Vessel once per calendar year or at any time after the occurrence of an Event of Default which is continuing, provided in each case that the Agent shall use reasonable endeavours to ensure that such inspections or surveys shall not interfere with the operation of such Mortgaged Vessel for the purpose of inspecting her and to afford all proper facilities for such inspections and for this purpose to give the Agent reasonable advance notice of any intended drydocking of such Mortgaged Vessel (whether for the purpose of classification, survey or otherwise) and to pay the costs in respect of each such inspection or survey;

8.5.7 Prevention of and release from arrest

(a) when they fall due, pay and discharge all debts, damages, liabilities and outgoings whatsoever which have given, or where there are reasonable grounds to expect that they may give, rise to maritime, statutory or possessory liens on, or claims enforceable against, such Mortgaged Vessel, her Earnings or Insurances or any part thereof; and

(b) in the event of:

- (i) a writ or libel being filed against such Mortgaged Vessel or her Earnings or Insurances or any part thereof, or
- (ii) of any of the same being arrested, attached or levied upon pursuant to legal process or purported legal process, or
- (iii) in the event of detention of such Mortgaged Vessel in exercise or purported exercise of any such lien or claim as aforesaid,

to procure the release of such Mortgaged Vessel, her Earnings and Insurances from such arrest, detention attachment or levy or, as the case may be, the discharge of the writ or libel forthwith upon the relevant Owner receiving notice thereof (or, in the case of an arrest of such Mortgaged Vessel, within 30 days thereof) by providing bail or procuring the provision of security or otherwise as the circumstances may require;

8.5.8 Employment

not employ such Mortgaged Vessel or permit her employment in any manner, trade or business which is forbidden by laws of the Flag State or international law, or which is unlawful or illicit under the law of any relevant jurisdiction, or in carrying illicit or prohibited goods, or in any manner whatsoever which may render her liable to condemnation in a prize court, or to destruction, seizure, confiscation, penalty or sanctions and, in the event of hostilities in any part of the world (whether war be declared or not), not employ such Mortgaged Vessel or permit her employment in carrying any contraband goods, or enter or trade to or to continue to trade in any zone which is declared a war zone by any Government Entity or by such Mortgaged Vessel's war risks insurers unless the prior written consent of such Mortgaged Vessel's war risks insurers is obtained and such special insurance cover as such Mortgaged Vessel's war risks insurers may require shall have been effected by the relevant Owner at its expense;

8.5.9 Vessel information

provide the Agent promptly on request with all such information as it may from time to time require in relation to such Mortgaged Vessel, her Insurances, her employment, position and engagements, particulars of all towages and salvages, and copies of all charters and other contracts for her employment, or otherwise howsoever concerning her, as well as copies of all original class records held by the Classification Society in relation to such Mortgaged Vessel, all reports of port state control inspections of such Mortgaged Vessel and information on the financial and operating performance of such Mortgaged Vessel and all such information as it may from time to time require to determine the Valuation Amount of such Mortgaged Vessel in accordance with clause 8.2.2;

8.5.10 Notification of certain events

notify the Agent forthwith upon becoming aware of the same, by fax thereafter confirmed by letter of:

- (a) any damage to such Mortgaged Vessel requiring repairs the cost of which will or might exceed the Casualty Amount; or
- (b) any occurrence in consequence of which such Mortgaged Vessel has or may become a Total Loss; or
- (c) any requisition of such Mortgaged Vessel for hire; or
- (d) any requirement or recommendation made by any insurer or Classification Society or by any competent authority which is not, or cannot be, complied with in accordance with its terms; or
- (e) any arrest or detention of such Mortgaged Vessel of over 5 Banking Days or any exercise of a lien or other claim on such Mortgaged Vessel or her Earnings or Insurances or any part thereof; or
- (f) any petition or notice of meeting to consider any resolution to wind-up the relevant Owner (or any event analogous thereto under the laws of the place of its incorporation); or
- (g) the occurrence of any Default; or

- (h) the occurrence of any Environmental Claim against the relevant Owner, such Mortgaged Vessel, the Manager (other than the Third Party Manager) or any Group Member or the Corporate Guarantor or any incident, event or circumstance which may give rise to any such Environmental Claim; or
- (i) any other matter, event or incident, actual or threatened, the effect of which will or could lead to the ISM Code and or the ISPS Code not being complied with; or
- (j) the occurrence of any event which could have a Material Adverse Effect on either Borrower;
- (k) the occurrence of any material default under any contract relating to a Mortgage Vessel
- (l) the occurrence of, in relation to either Borrower, in any country or territory in which either of them carries on business or to the jurisdiction of whose courts any part of their assets is subject, any event which, in the reasonable opinion of the Agent, appears in that country or territory to correspond with, or have an effect equivalent or similar to, any of those mentioned in clauses 10.1.6 to 10.1.12 (inclusive) or the fact that either Borrower otherwise has become subject, in any such country or territory, to the operation of any law relating to insolvency, bankruptcy or liquidation;

8.5.11 Payment of outgoings and evidence of payments

promptly pay all tolls, dues and other outgoings whatsoever in respect of such Mortgaged Vessel and her Earnings and Insurances and to keep proper books of account in respect of such Mortgaged Vessel and her Earnings (provided that, for the avoidance of doubt, this does not mean the Borrowers preparing financial statements similar to financial statements required to be provided under clause 8.1.6) and, as and when the Agent may so require, to make such books available for inspection on behalf of the Agent;

8.5.12 Encumbrances

not without the prior written consent of the Agent (and then only subject to such conditions as the Agent may impose) hypothecate, create or purport or agree to create or permit to arise or subsist any Encumbrance (other than Permitted Encumbrances or Permitted Liens) over or in respect of such Mortgaged Vessel, any share or interest therein or in the Insurances, Earnings or Requisition Compensation or any part thereof or interest therein other than to or in favour of the Security Trustee;

8.5.13 Chartering

not without the prior written consent of the Agent (which the Agent shall have full liberty to withhold) and, if such consent is given, only subject to such conditions as the Agent may impose, let such Mortgaged Vessel:

- (a) on demise charter for any period; or
- (b) by any time or consecutive voyage charter for a term which exceeds or which by virtue of any optional extensions therein contained may exceed twenty four (24) months' duration; or

- (c) on terms whereby more than two (2) months' hire (or the equivalent) is payable in advance; or
- (d) below a fair and reasonable arms-length rate obtainable at the time when such Mortgaged Vessel is fixed;

8.5.14 Payment of Earnings

to procure that the Earnings are paid to the Security Trustee at all times if and when the same shall be or shall have become so payable in accordance with the Security Documents after the Security Trustee shall have directed pursuant to clause 2.1.1 of the General Assignment that the same shall be no longer receivable by the relevant Owner and that any Earnings which are so payable and which are in the hands of the relevant Owner's brokers or agents are duly accounted for and paid over to the Security Trustee forthwith on demand;

8.5.15 Repairers' liens

not without the previous consent in writing of the Agent, which consent shall not be unreasonably withheld, put such Mortgaged Vessel into the possession of any person for the purpose of work being done upon her in an amount exceeding or likely to exceed the Casualty Amount unless such person shall first have given to the Agent in terms satisfactory to them, a written undertaking not to exercise any lien on such Mortgaged Vessel or her Earnings for the cost of such work or otherwise;

8.5.16 Managers

not without the prior written consent of the Agent appoint anyone other than the Manager as commercial and technical manager of such Mortgaged Vessel nor to terminate or amend the terms of the relevant Management Agreement;

8.5.17 Notice of Mortgage

place and at all times and places to retain a properly certified copy of the Mortgage in respect of such Mortgaged Vessel (which shall form part of such Mortgaged Vessel's documents) on board such Mortgaged Vessel with her papers and cause such certified copy of such Mortgage to be exhibited to any and all persons having business with such Mortgaged Vessel which might create or imply any commitment or encumbrance whatsoever on or in respect of such Mortgaged Vessel (other than a lien for crew's wages and salvage) and to any representative of the Security Trustee and to place and keep prominently displayed in the navigation room and in the Master's cabin of such Mortgaged Vessel a framed printed notice in plain type reading as follows:

"NOTICE OF MORTGAGE

This Ship is mortgaged by the Owner thereof, [] of Trust Company Complex, Ajeltake Road, Ajeltake Island Majuro, Marshall Islands MH 96960 to **CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK** of 12, place des Etats-Unis, CS 70052, 92547 Montrouge Cedex, France pursuant to [the provisions of Law No. 55 of 2008 of the Republic of Panama] and other pertinent legislation and pursuant also to the terms of the said Mortgage a certified copy of which is preserved with the Ship's papers. Therefore, neither the Owner nor any charterer nor the Master of this Ship has any right, power or authority to create, incur or permit to be imposed upon this Ship any commitments or encumbrances whatsoever other than for crew's wages and salvage";

8.5.18 Conveyance on default

where such Mortgaged Vessel is (or is to be) sold in exercise of any power contained in this Mortgage, execute, forthwith upon request by the Security Trustee, such form of conveyance of such Mortgaged Vessel as the Security Trustee may require;

8.5.19 Anti-drug abuse

without prejudice to clause 5.1.9, take all necessary and proper precautions to prevent any infringements of the Anti-Drug Abuse Act of 1986 of the United States of America or any similar legislation applicable to such Mortgaged Vessel in any jurisdiction in or to which such Mortgaged Vessel shall be employed or located or trade or which may otherwise be applicable to such Mortgaged Vessel and/or the relevant Owner;

8.5.20 Compliance with Environmental Laws

comply with, and use all reasonable and proper endeavours to procure that all Environmental Affiliates of the relevant Owner comply with, all Environmental Laws in relation to such Mortgaged Vessel including, without limitation, requirements relating to manning, submission of oil spill response plans, designation of qualified individuals and establishing and establishment of financial responsibility and to obtain and comply with, and use all reasonable and proper endeavours to procure that all Environmental Affiliates of the relevant Owner obtain and comply with, all Environmental Approvals in relation to such Mortgaged Vessel, where failure to do so would have or be likely to have a Material Adverse Effect;

8.5.21 Trading

not permit such Mortgaged Vessel to trade in any area prohibited by the government of the Flag State or in breach of Sanctions;

8.5.22 Recycling

if its Vessel is intended to be scrapped during the Facility Period, use its commercially reasonable 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 for the Safe and Environmentally Sound Recycling of Ships (2009);

8.5.23 Inventory of Hazardous Materials

maintain a green passport notification (based on the Inventory of Hazardous Materials) for its Vessel from its Classification Society throughout the Facility Period (commencing on 1 January 2021).

Poseidon Principles

Each Borrower shall, upon the request of any Lender and at the cost of the Borrowers, on or before 31st July in each calendar year, supply or procure the supply by the relevant Classification Society (as specified by the relevant Lender) to the Agent of all information necessary in order for any Lender to comply with its obligations under the Poseidon Principles in respect of the preceding year, including, without limitation, all ship fuel oil consumption data required to be collected and reported in accordance with Regulation 22A of Annex VI and any Statement of Compliance, together with a Carbon Intensity and Climate Alignment Certificate, in each case relating to the Ship owned by it for the preceding calendar year provided always that, for the avoidance of doubt, such information shall be “Confidential Information” for the purposes of Clause 15.9 (*Disclosure of Information*) but the Borrowers acknowledge that, in accordance with the Poseidon Principles, such information will form part of the information published regarding the relevant Lender’s portfolio climate alignment.

For the purposes of this Clause 8.6 (*Poseidon Principles*):

“**Annex VI**” means Annex VI of the Protocol of 1997 (as subsequently amended from time to time) to amend the International Convention for the Prevention of Pollution from Ships 1973 (“MARPOL”), as modified by the Protocol of 1978 relating thereto;

“**Carbon Intensity and Climate Alignment Certificate**” means a certificate from a Recognised Organisation relating to a Ship and a calendar year setting out:

- (a) the average efficiency ratio of that Ship for all voyages performed by it over that calendar year using ship fuel oil consumption data required to be collected and reported in accordance with regulation 22A of Annex VI in respect of that calendar year; and
- (b) the climate alignment of that Ship for such calendar year,

in each case as calculated in accordance with the Poseidon Principles.

“**Recognised Organisation**” means, in respect of a Vessel, an organisation which is likely to be the Classification Society representing that Vessel’s flag state and, for the purposes of Clause 8.6 (*Poseidon Principles*), duly authorised to determine whether the relevant Owner has complied with regulation 22A of Annex VI.

“**Poseidon Principles**” means the financial industry framework for assessing and disclosing the climate alignment of ship finance portfolios published in June 2019 as the same may be amended or replaced from time to time; and

“**Statement of Compliance**” means a Statement of Compliance related to fuel oil consumption pursuant to regulations 6.6 and 6.7 of Annex VI.

9 **CONDITIONS**

9.1 **Documents and evidence**

The obligation of each Lender to make its Commitment available in respect of the Loan is conditional upon:

9.1.1 that, on or before the service of the Drawdown Notice hereunder, the Agent has received the documents described in Part A of Schedule 3 in form and substance satisfactory to the Agent and its lawyers;

9.1.2 that, on or before the drawdown of the Loan, the Agent has received the documents described in Part B of Schedule 3 in respect of the Relevant Vessel (as defined in Schedule 3) in form and substance satisfactory to the Agent and its lawyers;

9.1.3 the representations and warranties contained in clause 7 and clauses 4.1 and 4.2 of the Corporate Guarantee being then true and correct as if each was made with respect to the facts and circumstances existing at such time; and

9.1.4 no Default having occurred and being continuing and there being no Default which would result from the making of the Loan.

9.2 **Waiver of conditions precedent**

The conditions specified in this clause 9 are inserted solely for the benefit of the Lenders and may be waived by the Agent in whole or in part and with or without conditions only with the consent of the Majority Lenders.

9.3 **Further conditions precedent/conditions subsequent**

Not later than five (5) Banking Days prior to the Drawdown Date and not later than five (5) Banking Days prior to each Interest Payment Date, the Agent (acting on the instructions of the Majority Lenders) may request and the Borrowers must, not later than two (2) Banking Days prior to such date, deliver to the Agent (at the Borrowers' expense) on such request further favourable certificates and/or opinions as to any or all of the matters which are the subject of clauses 7, 8, 9 and 10.

9.4 **English language**

All documents required to be delivered under and/or supplied in connection with any of the Security Documents must either be in the English language or accompanied by an English translation certified by a notary, lawyer or consulate acceptable to the Agent.

10 **EVENTS OF DEFAULT**

10.1 **Events**

Each of the following events shall constitute an Event of Default (whether such event shall occur voluntarily or involuntarily or by operation of law or regulation or in connection with any judgment, decree or order of any court or other authority or otherwise, howsoever):

- 10.1.1 **Non-payment:** any Security Party fails to pay any sum payable by it under any of the Security Documents at the time, in the currency and in the manner stipulated in the Security Documents or the Underlying Documents (and so that, for this purpose, sums payable (i) under clauses 3.1 and 4.1 shall be treated as having been paid at the stipulated time if (aa) received by the Agent within three (3) Banking Days of the dates therein referred to and (bb) such delay in receipt is caused by administrative or other delays or errors within the banking system and (ii) on demand shall be treated as having been paid at the stipulated time if paid within three (3) Banking Days of demand); or
- 10.1.2 **Breach of Insurance and certain other obligations:** any Owner or, as the context may require, any Manager or any other person fails to obtain and/or maintain the Insurances for any of the Mortgaged Vessels or if any insurer in respect of such Insurances cancels the Insurances or disclaims liability by reason, in either case, of mis-statement in any proposal for the Insurances or for any other failure or default on the part of a Borrowers or any other person or a Borrower commits any breach of or omits to observe any of the obligations or undertakings expressed to be assumed by them under clause 8; or
- 10.1.3 **Breach of other obligations:** any Security Party or any Manager commits any breach of or omits to observe any of its obligations or undertakings expressed to be assumed by it under any of the Security Documents (other than those referred to in clauses 10.1.1 and 10.1.2 above) unless such breach or omission, in the opinion of the Agent (following consultation with the Banks) is capable of remedy, in which case the same shall constitute an Event of Default if it has not been remedied within fifteen calendar (15) days of the occurrence thereof; or
- 10.1.4 **Misrepresentation:** any representation or warranty made or deemed to be made or repeated by or in respect of any Security Party in or pursuant to any of the Security Documents or in any notice, certificate or statement referred to in or delivered under any of the Security Documents is or proves to have been incorrect or misleading in any material respect; or
- 10.1.5 **Cross-default:** any Indebtedness of the Group in an amount exceeding in aggregate fifteen million Dollars (USD 15,000,000) or any Indebtedness of either Borrower is not paid when due (subject to applicable grace or cure periods) or any such Indebtedness of either Borrower or any other Security Party becomes (whether by declaration or automatically in accordance with the relevant agreement or instrument constituting the same) due and payable prior to the date when it would otherwise have become due (unless as a result of the exercise by the relevant

- Borrower or other Security Party of a voluntary right of prepayment), or any creditor of either Borrower or any other Security Party becomes entitled to declare any such Indebtedness due and payable or any facility or commitment available to either Borrower or any other Security Party relating to Indebtedness is withdrawn, suspended or cancelled by reason of any default (however described) of the person concerned; or
- 10.1.6 **Execution:** any uninsured judgment or order made against any Security Party is not stayed, appealed against or complied with within thirty (30) days or a creditor attaches or takes possession of, or a distress, execution, sequestration or other process is levied or enforced upon or sued out against, any of the undertakings, assets, rights or revenues of any Security Party and is not discharged within forty (40) days; or
- 10.1.7 **Insolvency:** any Security Party is unable or admits inability to pay its debts as they fall due; suspends making payments on any of its debts or announces an intention to do so; becomes insolvent; or suffers the declaration of a moratorium in respect of any of its Indebtedness; or
- 10.1.8 **Reduction or loss of capital:** a meeting is convened by any Security Party (other than the Corporate Guarantor) without the Agent's prior written consent, for the purpose of passing any resolution to purchase, reduce or redeem any of its share capital without the Agent's prior written consent; or
- 10.1.9 **Dissolution:** any corporate action, Proceedings or other steps are taken to dissolve or wind-up any Security Party or an order is made or resolution passed for the dissolution or winding up of any Security Party or a notice is issued convening a meeting for such purpose; or
- 10.1.10 **Administration:** any petition is presented, notice given or other steps are taken anywhere to appoint an administrator of any Security Party or the Agent reasonably believes that any such petition or other step is imminent or an administration order is made in relation to any Security Party; or
- 10.1.11 **Appointment of receivers and managers:** any administrative or other receiver of any Security Party is appointed anywhere or any material part of its assets and/or undertaking or any other steps are taken to enforce any Encumbrance over all or any material part of the assets of any Security Party; or
- 10.1.12 **Compositions:** any corporate action, legal proceedings or other procedures or steps are taken, or negotiations commenced, by any Security Party or by any of its creditors (other than the Corporate Guarantor) or any legal proceedings are taken in respect of the Corporate Guarantor, with a view to the general readjustment or rescheduling of all or part of its Indebtedness or to proposing any kind of composition, compromise or arrangement involving such company and any of its creditors; or
- 10.1.13 **Analogous proceedings:** there occurs, in relation to any Security Party, in any country or territory in which any of them carries on business or to the jurisdiction of whose courts any part of their assets is subject, any event which, in the reasonable opinion of the Agent, appears in that country or territory to correspond with, or have an effect equivalent or similar to, any of those mentioned in clauses 10.1.6 to 10.1.12 (inclusive) or any Security Party otherwise becomes subject, in any such country or territory, to the operation of any law relating to insolvency, bankruptcy or liquidation; or

- 10.1.14 **Cessation of business:** any Security Party suspends or ceases or threatens to suspend or cease to carry on its business without the prior written consent of the Agent, such consent not to be unreasonably withheld (it being agreed that a sale of a Vessel by the Borrower who is the owners thereof shall not constitute an Event of Default provided that the Borrowers comply with clause 4.4); or
- 10.1.15 **Seizure:** all or a material part of the undertaking, assets, rights or revenues of, or shares or other ownership interests in, any Security Party are seized, nationalised, expropriated or compulsorily acquired by or under the authority of any Government Entity; or
- 10.1.16 **Invalidity:** any of the Security Documents and the Underlying Documents shall at any time and for any reason become invalid or unenforceable or otherwise cease to remain in full force and effect, or if the validity or enforceability of any of the Security Documents and the Underlying Documents shall at any time and for any reason be contested by any Security Party which is a party thereto, or if any such Security Party shall deny that it has any, or any further, liability thereunder; or
- 10.1.17 **Unlawfulness:** any Unlawfulness occurs or it becomes impossible or unlawful at any time for any Security Party, to fulfil any of the covenants and obligations expressed to be assumed by it in any of the Security Documents or for a Bank to exercise the rights or any of them vested in it under any of the Security Documents; or
- 10.1.18 **Repudiation:** any Security Party repudiates any of the Security Documents or does or causes or permits to be done any act or thing evidencing an intention to repudiate any of the Security Documents; or
- 10.1.19 **Encumbrances enforceable:** any Encumbrance (other than Permitted Liens) in respect of any of the property (or part thereof) which is the subject of any of the Security Documents becomes enforceable; or
- 10.1.20 **Arrest:** a Mortgaged Vessel is arrested, confiscated, seized, taken in execution, impounded, forfeited, detained in exercise or purported exercise of any possessory lien or other claim or otherwise taken from the possession of its Owner and that Owner shall fail to procure the release of such Mortgaged Vessel within a period of thirty (30) days thereafter (this clause does not include capture of a Vessel by pirates for up to 12 months (but does apply if such capture exceeds 12 months) if relevant underwriters confirm in writing (in terms satisfactory to the Lenders) within ninety (90) day of capture, that such capture will be covered by the relevant Borrower's war risks insurance); or
- 10.1.21 **Registration:** the registration of a Mortgaged Vessel under the laws and flag of the relevant Flag State is cancelled or terminated without the prior written consent of the Majority Lenders; or
- 10.1.22 **Unrest:** the Flag State of a Mortgaged Vessel or the country in which any Security Party is incorporated or domiciled becomes involved in hostilities or civil war or there is a seizure of power in the Flag State by unconstitutional means (which hostilities or civil war or seizure of power would reasonably be expected to have a Material Adverse Effect) unless the Owner of the Vessel registered in such Flag State shall have transferred its Vessel onto a new flag acceptable to the Banks within sixty (60) days of the start of such hostilities or civil war or seizure of power; or
- 10.1.23 **Environmental Incidents:** an Environmental Incident occurs which gives rise, or may give rise, to an Environmental Claim which could, in the opinion of the Agent be expected to have a Material Adverse Effect (i) on the business, assets or financial condition of any Security Party or the Group taken as a whole or (ii) on the security constituted by any of the Security Documents or the enforceability of that security in accordance with its terms; or

- 10.1.24 **P&I:** an Owner or a Manager or any other person fails or omits to comply with any requirements of the protection and indemnity association or other insurer with which a Mortgaged Vessel is entered for insurance or insured against protection and indemnity risks (including oil pollution risks) to the effect that any cover (including, without limitation, any cover in respect of liability for Environmental Claims arising in jurisdictions where such Mortgaged Vessel operates or trades) is or may be liable to cancellation, qualification or exclusion at any time; or
- 10.1.25 **Material events:** any other event occurs or circumstance arises which, in the opinion of the Agent (following consultation with the Banks), is likely materially and adversely to affect either (i) the ability of any Security Party to perform all or any of its obligations under or otherwise to comply with the terms of any of the Security Documents or (ii) the security created by any of the Security Documents; or
- 10.1.26 **Required Authorisations:** any Required Authorisation is revoked or withheld or modified (the effect of which would be to have a Material Adverse Effect) or is otherwise not granted or fails to remain in full force and effect or if any exchange control or other law or regulation shall exist which would make any transaction under the Security Documents or the continuation thereof, unlawful or would prevent the performance by any Security Party of any term of any of the Security Documents;
- 10.1.27 **Ownership/management:** there is any change in the direct or indirect ownership of either Borrower or either Vessel (from that disclosed pursuant to paragraph (h) of Schedule 2, Part A) or a change of Manager (other than as contemplated by the definition of Manager) of either Vessel without the prior written consent of the Agent (such consent not to be unreasonably withheld in the case of a change of Manager); or
- 10.1.28 **Anti-Money Laundering:** any Security Party is in breach of or fails to observe any law, requirement, measure or procedure implemented to combat Money Laundering or comparable United States federal and state laws, including without limitation the PATRIOT Act and the Bank Secrecy Act.

10.2 **Acceleration**

The Agent may, and if so requested by the Majority Lenders shall, without prejudice to any other rights of the Lenders, at any time after the happening of an Event of Default so long as the same is continuing by notice to the Borrowers declare that:

- 10.2.1 the obligation of each Lender to make its Commitment available shall be terminated, whereupon the Commitment shall immediately be cancelled; and/or
- 10.2.2 the Loan and all interest accrued and all other sums payable whensoever under the Security Documents have become due and payable, whereupon the same shall, immediately or otherwise in accordance with the terms of such notice, become due and payable.

10.3 **Demand basis**

If, under clause 10.2.2, the Agent has declared the Loan to be due and payable on demand, at any time thereafter the Agent may (and if so instructed by the Majority Lenders shall) by further written notice to the Borrowers demand repayment of the Loan on such date as may be specified whereupon the Loan shall become due and payable accordingly with all interest accrued and all other sums payable under this Agreement.

11 INDEMNITIES

11.1 **General indemnity**

The Borrowers agree to indemnify each Bank on demand, without prejudice to any of such Bank's other rights under any of the Security Documents, against any loss (including loss of Margin) or expense (including, without limitation, any Break Costs) which such Bank shall certify as sustained by it (a) as a consequence of any Default, any prepayment of the Loan being made under clauses 4.2, 4.3, 4.5, 8.2.1(a) or 12.1 or any other repayment or prepayment of the Loan or part thereof being made otherwise than on an Interest Payment Date relating to the part of the Loan prepaid or repaid; and/or the Loan or any part thereof not being made for any reason (excluding any default by the Agent, the Security Trustee or any Lender) after the Drawdown Notice has been given or (b) in connection with Sanctions.

11.2 **Environmental indemnity**

The Borrowers shall indemnify each Bank on demand and hold it harmless from and against all costs, claims, expenses, payments, charges, losses, demands, liabilities, actions, Proceedings, penalties, fines, damages, judgements, orders, sanctions or other outgoings of whatever nature which may be incurred or made or asserted whensoever against such Bank at any time, whether before or after the repayment in full of principal and interest under this Agreement, arising howsoever out of an Environmental Claim made or asserted against such Bank which would not have been, or been capable of being, made or asserted against such Bank had it not entered into any of the Security Documents or been involved in any of the resulting or associated transactions.

11.3 **Capital adequacy and reserve requirements indemnity**

The Borrowers shall promptly indemnify each Lender on demand against any cost incurred or loss suffered by such Lender as a result of its complying with (i) the minimum reserve requirements from time to time of the European Central Bank (ii) any capital adequacy directive of the European Union and/or (iii) any revised framework for international convergence of capital measurements and capital standards and/or any regulation imposed by any Government Entity in connection therewith, and/or in connection with maintaining required reserves with a relevant national central bank to the extent that such compliance or maintenance relates to such Lender's Commitment and/or Contribution or deposits obtained by it to fund the whole or part thereof and to the extent such cost or loss is not recoverable by such Lender under clause 12.2.

12 **UNLAWFULNESS AND INCREASED COSTS**

12.1 **Unlawfulness**

If, regardless of any other provision of this Agreement, by reason of:

- (a) the introduction of or any change in any applicable law or regulation or Sanctions or any change in the interpretation or application thereof; or
- (b) compliance by a Lender with any directive, request or requirement (whether or not having the force of law) of any central bank or Government Entity,

it becomes unlawful or it is prohibited by or contrary to such directive request or requirement for any Lender to contribute to the Loan or to maintain its Commitment or fund its Contribution to the Loan or the Loan or to maintain or give effect to any of its obligations in connection howsoever with this Agreement, such Lender shall promptly, through the Agent, give notice to the Borrowers whereupon (a) such Lender's Contribution and Commitment shall be reduced to zero and (b) the Borrowers shall be obliged to prepay such Lender's Contribution either (i) immediately or (ii) on a future date (specified in the Agent's notice) not being earlier than the latest date permitted by the relevant law, regulation, directive, request or requirement together with interest accrued to the date of prepayment and all other sums payable whensoever by the Borrowers under this Agreement.

12.2 **Increased costs**

If the result of any change (which occurs after the Execution Date) in, or in the interpretation or application of, or the introduction of, any law or any regulation, request or requirement or the effect of complying with any applicable directive, request or requirement (whether or not having the force of law, but, if not having the force of law, with which a Lender or, as the case may be, its holding company habitually complies) of any central bank or Government Entity (including, but not limited to, the 1988 Basle Convergence Agreement and including those relating to Taxation or any kind of liquidity, stock or capital adequacy controls, reserve assets, cash ratio deposits and special deposits or other banking or monetary controls or requirements which affect the manner in which a Lender or its holding company allocates capital resources to the Lender's obligations hereunder), is to:

- 12.2.1 subject any Lender to Taxes or change the basis of Taxation of any Lender with respect to any payment under any of the Security Documents (other than Taxes or Taxation on the overall net income, profits or gains of such Lender imposed in the jurisdiction in which its principal or lending office under this Agreement is located); and/or

- 12.2.2 increase the cost to, or impose an additional cost on, any Lender or its holding company in making or keeping such Lender's Commitment available or maintaining or funding all or part of such Lender's Contribution; and/or
- 12.2.3 reduce the amount payable or the effective return to any Lender under any of the Security Documents; and/or
- 12.2.4 reduce any Lender's or its holding company's rate of return on its overall capital by reason of a change in the manner in which it is required to allocate capital resources to such Lender's obligations under any of the Security Documents; and/or
- 12.2.5 require any Lender or its holding company to make a payment or forgo a return on or calculated by reference to any amount received or receivable by such Lender under any of the Security Documents; and/or
- 12.2.6 require any Lender or its holding company to incur or sustain a loss (including a loss of future potential profits) by reason of being obliged to deduct all or part of its Contribution or the Loan from its capital for regulatory purposes,

then and in each such case (subject to clause 12.3):

- (a) such Lender shall notify, via the Agent, the Borrowers in writing of such event promptly upon its becoming aware of the same; and
- (b) the Borrowers shall on demand made at any time whether or not such Lender's Contribution has been repaid, pay to the Agent for the account of such Lender the amount which such Lender specifies (in a certificate setting forth the basis of the computation of such amount but not including any matters which such Lender or its holding company regards as confidential) is required to compensate such Lender and/or (as the case may be) its holding company for such liability to Taxes, cost, reduction, payment, forgone return or loss.

For the purposes of this clause 12.2 "**holding company**" means the company or entity (if any) within the consolidated supervision of which a Lender is included.

12.3 **Exception**

Nothing in clause 12.2 shall entitle any Lender to receive any amount relating to compensation for any such liability to Taxes, increased or additional cost, reduction, payment, foregone return or loss to the extent that the same is the subject of an additional payment under clause 6.6.

13 **APPLICATION OF MONEYS, SET OFF, PRO-RATA PAYMENTS AND MISCELLANEOUS**

13.1 **Application of moneys**

All moneys received by the Agent and/or the Security Trustee under or pursuant to any of the Security Documents and expressed to be applicable in accordance with the provisions of this clause 13.1 or in a manner determined in the Security Trustee's or (as the case may be) the Agent's discretion, shall be applied in the following manner:

- 13.1.1 first, in or towards payment, on a pro-rata basis, of any unpaid costs and expenses of the Banks or any of them under any of the Security Documents;
- 13.1.2 secondly, in or towards payment of any fees payable to the Arranger, the Agent or any of the other Banks under, or in relation to, the Security Documents which remain unpaid;
- 13.1.3 thirdly, in or towards payment to the Lenders, on a pro rata basis, of any accrued interest owing in respect of the Loan which shall have become due under any of the Security Documents but remains unpaid;
- 13.1.4 fourthly, in or towards payment to the Lenders, on a pro rata basis according to their respective Contributions, of any principal in respect of the Loan (whether the same is due and payable or not); and
- 13.1.5 fifthly, in or towards payment to the Lenders, on a pro rata basis, for any loss suffered by reason of any such payment in respect of principal not being effected on an Interest Payment Date relating to the part of the Loan repaid and which amounts are so payable under this Agreement;
- 13.1.6 sixthly in or towards payment to the relevant person of any other sum which shall have become due under any of the Security Documents but remains unpaid (and, if more than one such sum so remains unpaid, on a pro rata basis;
- 13.1.7 seventhly, the surplus (if any) shall be paid to the Borrowers or to whomsoever else may then be entitled to receive such surplus.

13.2 **Set-off**

- 13.2.1 Each Borrower irrevocably authorises each Bank (without prejudice to any of such Bank's rights at law, in equity or otherwise), at any time and without notice to the Borrowers, to apply any credit balance to which either Borrower is then entitled standing upon any account of either Borrower with any branch of such Bank in or towards satisfaction of any sum due and payable from the Borrowers to such Bank under any of the Security Documents. For this purpose, each Bank is authorised to purchase with the moneys standing to the credit of such account such other currencies as may be necessary to effect such application.
- 13.2.2 No Bank shall be obliged to exercise any right given to it by this clause 13.2. Each Bank shall notify the Borrowers through the Agent forthwith upon the exercise or purported exercise of any right of set off giving full details in relation thereto and the Agent shall inform the other Banks.
- 13.2.3 Nothing in this clause 13.2 shall be effective to create a charge or other security interest.

13.3 **Pro rata payments**

- 13.3.1 If at any time any Lender (the "**Recovering Lender**") receives or recovers any amount owing to it by the Borrowers under this Agreement (other than pursuant to any other Security Document) by direct payment, set-off or in any manner other than by payment through the Agent pursuant to clauses 6.1 or 6.9 (not being a payment received from a Transferee Bank or a sub-participant in such Lender's Contribution or any other payment of an amount due to the Recovering Lender for its sole account pursuant to clauses 3.6, 5, 6.6, 11.1, 11.2, 11.3, 12.1, or

12.2), the Recovering Lender shall, within two (2) Banking Days of such receipt or recovery (a “**Relevant Receipt**”) notify the Agent of the amount of the Relevant Receipt. If the Relevant Receipt exceeds the amount which the Recovering Lender would have received if the Relevant Receipt had been received by the Agent and distributed pursuant to clause 6.1 or 6.10 (as the case may be) then:

- (a) within two (2) Banking Days of demand by the Agent, the Recovering Lender shall pay to the Agent an amount equal (or equivalent) to the excess;
- (b) the Agent shall treat the excess amount so paid by the Recovering Lender as if it were a payment made by the Borrowers and shall distribute the same to the Lenders (other than the Recovering Lenders) in accordance with clause 6.10; and
- (c) as between the Borrowers and the Recovering Lender the excess amount so re-distributed shall be treated as not having been paid but the obligations of the Borrowers to the other Lenders shall, to the extent of the amount so re-distributed to them, be treated as discharged.

13.3.2 If any part of the Relevant Receipt subsequently has to be wholly or partly refunded by the Recovering Lender (whether to a liquidator or otherwise) each Lender to which any part of such Relevant Receipt was so re-distributed shall on request from the Recovering Lender repay to the Recovering Lender such Lender’s pro-rata share of the amount which has to be refunded by the Recovering Lender.

13.3.3 Each Lender shall on request supply to the Agent such information as the Agent may from time to time request for the purposes of this clause 13.3.

13.3.4 Notwithstanding the foregoing provisions of this clause 13.3, no Recovering Lender shall be obliged to share any Relevant Receipt which it receives or recovers pursuant to Proceedings taken by it to recover any sums owing to it under this Agreement with any other party which has a legal right to, but does not, either join in such Proceedings or commence and diligently pursue separate Proceedings to enforce its rights in the same or another court (unless the Proceedings instituted by the Recovering Lender are instituted by it without prior notice having been given to such party through the Agent).

13.4 **No release**

For the avoidance of doubt it is hereby declared that failure by any Recovering Lender to comply with the provisions of clause 13.3 shall not release any other Recovering Lender from any of its obligations or liabilities under clause 13.3.

13.5 **No charge**

The provisions of this clause 13 shall not, and shall not be construed so as to, constitute a charge or create or declare a trust by a Lender over all or any part of a sum received or recovered by it in the circumstances mentioned in clause 13.3.

13.6 **Further assurance**

Each Borrower undertakes with each Bank that the Security Documents shall both at the date of execution and delivery thereof and throughout the Facility Period be valid and binding obligations of the Security Parties party thereto which, with the rights of each Lender thereunder, are enforceable in accordance with their respective terms and that they will, at their

expense, execute, sign, perfect and do, and will procure the execution, signing, perfecting and doing by each of the other Security Parties of, any and every such further assurance, document, act or thing as in the reasonable opinion of the Majority Lenders may be necessary or desirable for perfecting the security contemplated or constituted by the Security Documents.

13.7 **Conflicts**

In the event of any conflict between this Agreement and any of the other Security Documents, the provisions of this Agreement shall prevail.

13.8 **No implied waivers, remedies cumulative**

No failure or delay on the part of any of the Banks to exercise any power, right or remedy under any of the Security Documents shall operate as a waiver thereof, nor shall any single or partial exercise by any Bank of any power, right or remedy preclude any other or further exercise thereof or the exercise of any other power, right or remedy. The remedies provided in the Security Documents are cumulative and are not exclusive of any remedies provided by law. No waiver by any Bank shall be effective unless it is in writing.

13.9 **Severability**

If any provision of this Agreement is prohibited, invalid, illegal or unenforceable in any jurisdiction, such prohibition, invalidity, illegality or unenforceability shall not affect or impair howsoever the remaining provisions thereof or affect the validity, legality or enforceability of such provision in any other jurisdiction.

13.10 **Force Majeure**

Regardless of any other provision of this Agreement, none of the Banks shall be liable for any failure to perform the whole or any part of this Agreement resulting directly or indirectly from (i) the action or inaction or purported action of any governmental or local authority (ii) any strike, lockout, boycott or blockade (including any strike, lockout, boycott or blockade effected by or upon any Bank or any of its representatives or employees) (iii) any act of God (iv) any act of war (whether declared or not) or terrorism (v) any failure of any information technology or other operational systems or equipment affecting any Bank or (vi) any other circumstances whatsoever outside any Bank's control.

13.11 **Amendments**

This Agreement may be amended or varied only by an instrument in writing executed by all parties hereto who irrevocably agree that the provisions of this clause 13.11 may not be waived or modified except by an instrument in writing to that effect signed by all of them.

13.12 **Counterparts**

This Agreement may be executed in any number of counterparts and all such counterparts taken together shall be deemed to constitute one and the same agreement which may be sufficiently evidenced by one counterpart.

13.13 **English language**

All documents required to be delivered under and/or supplied whensoever in connection howsoever with any of the Security Documents and all notices, communications, information and other written material whatsoever given or provided in connection howsoever therewith must either be in the English language or accompanied by an English translation certified by a notary, lawyer or consulate acceptable to the Agent.

13.14 **Contractual recognition of bail-in**

Notwithstanding any other term of any Security 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 Security 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 Security Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.

14 **ACCOUNTS AND RETENTIONS**

14.1 **General**

Each Borrower undertakes with each Bank that it will ensure that:

14.1.1 it will on or before the Drawdown Date, open an Earnings Account in its name; and

14.1.2 all moneys payable to either Borrower in respect of the Earnings or Insurances of its Mortgaged Vessel shall, unless and until the Agent (acting on the instructions of the Majority Lenders) directs to the contrary, be paid to its Earnings Account, Provided however that if any of the moneys paid to an Earnings Account are payable in a currency other than USD the Account Bank shall then convert such moneys into USD at the Account Bank's spot rate of exchange at the relevant time for the purchase of USD with such currency and the term "spot rate of exchange" shall include any premium and costs of exchange payable in connection with the purchase of USD with such currency.

14.2 **Earnings Accounts: withdrawals**

Any sums standing to the credit of the Earnings Accounts may be applied from time to time:

- (i) firstly, in or towards payment, on a pro-rata basis, of any unpaid fees, costs and expenses of the Banks or any of them under any of the Security Documents;
- (ii) secondly, subject to there being no breach of clause 14.3 and to no Event of Default having occurred which is continuing, in the operation of the Vessels (operating and voyage expenses);
- (iii) thirdly, in or towards payment of the Retention Amount and payment to the Lenders, on a pro rata basis, of any accrued interest and any principal in respect of the Loan which shall have become due and payable; and
- (iv) fourthly, subject to there being no breach of clause 14.3 and to no Event of Default having occurred which is continuing and to there being at any time sufficient funds to maintain or pay amounts due under (i) to (iii) above as they fall due, for the general corporate purposes of the Borrowers, including payment of dividend (subject to Clause 8.1.23).

14.3 **Minimum Balance**

Each Borrower shall deposit on the Drawdown Date and maintain thereafter throughout the Facility Period on its Earnings Account a balance of not less than USD300,000.

14.4 **Retention Account: credits and withdrawals**

14.4.1 The Borrowers undertake with each Bank that, throughout the Facility Period, they will procure that, on each Retention Date there is paid (whether from the Earnings Accounts or elsewhere) to the Retention Account, the Retention Amount for such date.

14.4.2 Unless and until there shall occur an Event of Default (whereupon the provisions of clause 14.4 shall apply), all Retention Amounts credited to the Retention Account together with interest from time to time accruing or at any time accrued thereon must be applied by the Account Bank (and the Borrowers hereby irrevocably authorise the Account Bank so to apply the same) upon each Repayment Date and/or on each day that interest is payable on the Loan pursuant to clause 3.1, in or towards payment to the Agent of the instalment then falling due for repayment or, as the case may be, the amount of interest then due. Each such application by the Account Bank shall constitute a payment in or towards satisfaction of the Borrowers' corresponding payment obligations under this Agreement but shall be strictly without prejudice to the obligations of the Borrowers to make any such payment to the extent that the aforesaid application by the Account Bank is insufficient to meet the same.

14.4.3 Unless the Agent (acting on the instructions of the Majority Lenders) otherwise agrees in writing and subject to clause 14.3.2, Borrowers shall not be entitled to withdraw any moneys from the Retention Account at any time during the Facility Period.

14.5 **Application of accounts**

At any time after the occurrence of an Event of Default, the Agent may (and on the instructions of the Majority Lenders shall), without notice to the Borrowers, instruct the Account Bank to apply all moneys then standing to the credit of the Earnings Accounts and/or the Retention Account (together with interest from time to time accruing or accrued thereon) in or towards satisfaction of any sums due to the Banks or any of them under the Security Documents in the manner specified in clause 13.1.

14.6 **Charging of accounts**

The Earnings Accounts, the Retention Account and all amounts from time to time respectively standing to the credit thereof shall be subject to the security constituted and the rights conferred by, respectively, the Earnings Account Pledges and the Retention Account Pledge.

15 **ASSIGNMENT, TRANSFER AND LENDING OFFICE**

15.1 **Benefit and burden**

This Agreement shall be binding upon, and enure for the benefit of, the Banks and the Borrowers and their respective successors in title.

15.2 **No assignment by Borrowers**

No Borrower may assign or transfer any of its rights or obligations under this Agreement without the prior written consent of the Lenders.

15.3 **Transfers by Banks**

any Lender (the “**Transferor Lender**”) may at any time, without the consent of, but after consultation with, the Borrowers, cause all or any part of its rights, benefits and/or obligations under this Agreement and the other Security Documents to be transferred to (i) another Lender, (ii) another branch, subsidiary or affiliate of a Lender, (iii) another first class international bank or financial institution, (iv) any member of the European System of Central Banks, (v) a trust corporation, insurance company, fund, capital investment company or other person which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets or (vi) (without prior notification to, nor prior consent from, the Borrowers) following the occurrence of an Event of Default which is continuing, any other person (in each case a “**Transferee Lender**”), in each case by delivering to the Agent a Transfer Certificate duly completed and duly executed by the Transferor Lender and the Transferee Lender. No such transfer is binding on, or effective in relation to, the Borrowers or the Agent unless (i) it is effected or evidenced by a Transfer Certificate which complies with the provisions of this clause 15.3 and is signed by or on behalf of the Transferor Lender, the Transferee Lender and the Agent (on behalf of itself, the Borrowers and the other Banks) and (ii) such transfer of rights under the other Security Documents has been effected and registered. Upon signature of any such Transfer Certificate by the Agent, which signature shall be effected as promptly as is practicable after such Transfer Certificate has been delivered to the Agent, and subject to the terms of such Transfer Certificate, such Transfer Certificate shall have effect as set out below.

The following further provisions shall have effect in relation to any Transfer Certificate:

- 15.3.1 a Transfer Certificate may be in respect of a Lender's rights in respect of all, or part of, its Commitment and shall be in respect of the same proportion of its Contribution;
- 15.3.2 a Transfer Certificate shall only be in respect of rights and obligations of the Transferor Lender in its capacity as a Lender and shall not transfer its rights and obligations (if applicable) as the Agent and/or Security Trustee, or in any other capacity, as the case may be and such other rights and obligations may only be transferred in accordance with any applicable provisions of this Agreement;
- 15.3.3 a Transfer Certificate shall take effect in accordance with English law as follows:
- (a) to the extent specified in the Transfer Certificate, the Transferor Lender's payment rights and all its other rights (other than those referred to in clause 15.3.2 above) under this Agreement are assigned to the Transferee Lender absolutely, free of any defects in the Transferor Lender's title and of any rights or equities which the Borrowers had against the Transferor Lender and the Transferee Lender assumes all obligations of the Transferor Lender as are transferred by such Transfer Certificate;
 - (b) the Transferor Lender's Commitment is discharged to the extent specified in the Transfer Certificate;
 - (c) the Transferee Lender becomes a Lender with a Contribution and/or a Commitment in respect of the Loan of the amounts specified in the Transfer Certificate;
 - (d) the Transferee Lender becomes bound by all the provisions of this Agreement and the Security Documents which are applicable to the Lenders generally, including those about pro-rata sharing and the exclusion of liability on the part of, and the indemnification of, the Agent and the Security Trustee and to the extent that the Transferee Lender becomes bound by those provisions, the Transferor Lender ceases to be bound by them;
 - (e) the Loan or part of the Loan which the Transferee Lender makes after the Transfer Certificate comes into effect ranks in point of priority and security in the same way as it would have ranked had it been made by the Transferor Lender, assuming that any defects in the Transferor Lender's title and any rights or equities of any Security Party against the Transferor Lender had not existed; and
 - (f) the Transferee Lender becomes entitled to all the rights under this Agreement which are applicable to the Lenders generally, including but not limited to those relating to the Majority Lenders and those under clauses 3.6, 5 and 12 and to the extent that the Transferee Lender becomes entitled to such rights, the Transferor Lender ceases to be entitled to them;
- 15.3.4 the rights and equities of the Borrowers or of any other Security Party referred to above include, but are not limited to, any right of set-off and any other kind of cross-claim; and
- 15.3.5 the Borrowers, the Account Bank, the Security Trustee, the Agent and the Lenders hereby irrevocably authorise and instruct the Agent to sign any such Transfer Certificate on their behalf and undertake not to withdraw, revoke or qualify such authority or instruction at any time. Promptly upon its signature of any Transfer Certificate, the Agent shall notify the Borrowers, the Transferor Lender and the Transferee Lender.

15.4 **Reliance on Transfer Certificate**

15.4.1 The Agent shall be entitled to rely on any Transfer Certificate believed by it to be genuine and correct and to have been presented or signed by the persons by whom it purports to have been presented or signed, and shall not be liable to any of the parties to this Agreement and the Security Documents for the consequences of such reliance.

15.4.2 The Agent shall at all times during the continuation of this Agreement maintain a register in which it shall record the name, Commitments, Contributions and administrative details (including the lending office) from time to time of the Lenders holding a Transfer Certificate and the date at which the transfer referred to in such Transfer Certificate held by each Lender was transferred to such Lender, and the Agent shall make the said register available for inspection by any Lender or the Borrowers during normal banking hours upon receipt by the Agent of reasonable prior notice requesting the Agent to do so.

15.4.3 The entries on the said register shall, in the absence of manifest error, be conclusive in determining the identities of the Commitments, the Contributions and the Transfer Certificates held by the Lenders from time to time and the principal amounts of such Transfer Certificates and may be relied upon by all parties to this Agreement.

15.5 **Transfer fees and expenses**

Any Transferor Lender who causes the transfer of all or any part of its rights, benefits and/or obligations under the Security Documents in accordance with the foregoing provisions of this clause 15, must, on each occasion, pay to the Agent a transfer fee of three thousand Dollars (USD3,000) and, in addition, be responsible for all other costs and expenses (including, but not limited to, reasonable legal fees and expenses) associated therewith and all value added tax thereon, as well as those of the Agent (in addition to its fee as aforesaid) in connection with such transfer.

15.6 **Documenting transfers**

If any Lender assigns all or any part of its rights or transfers all or any part of its rights, benefits and/or obligations as provided in clause 15.3, each Borrower undertakes, immediately on being requested to do so by the Agent and at the cost of the Transferor Lender, to enter into, and procure that the other Security Parties shall (at the cost of the Transferor Lender) enter into, such documents as may be necessary or desirable to transfer to the Transferee Lender all or the relevant part of such Lender's interest in the Security Documents and all relevant references in this Agreement to such Lender shall thereafter be construed as a reference to the Transferor Lender and/or its Transferee Lender (as the case may be) to the extent of their respective interests.

15.7 **Sub-Participation, securitisation, subrogation assignment**

15.7.1 A Lender may sub-participate or include in a securitisation or similar transaction all or any part of its rights and/or obligations under or in connection with the Security Documents without the prior consent of the Borrowers, any Security Party, the Agent or the Security Trustee and the Lenders may assign, in any manner and terms all or any part of those rights to an insurer or surety who has become subrogated to them.

15.7.2 The Borrowers shall, and shall procure that each Security Party shall, do everything desirable or necessary to assist the Lenders (or any of them) to achieve a successful (in the opinion of the Lender concerned) securitisation (or similar transaction) or any sub-participation or subrogation assignment.

15.8 **Lending office**

Each Lender shall lend through its office at the address specified in schedule 1 or, as the case may be, in any relevant Transfer Certificate or through any other office of such Lender selected from time to time by it through which such Lender wishes to lend for the purposes of this Agreement. If the office through which a Lender is lending is changed pursuant to this clause 15.8, such Lender shall notify the Agent promptly of such change and the Agent shall notify the Borrowers, the Security Trustee, the Account Bank and the other Lenders.

15.9 **Disclosure of information**

15.9.1 A Bank may disclose to any of its branches and affiliates, its head office, any relevant fiscal authorities a prospective assignee, transferee or to any other person who may propose entering into contractual relations with such Bank in relation to this Agreement such information about the Borrowers and/or the other Security Parties and/or the Loan and/or the Security Documents as such Bank shall consider appropriate in relation to any transfer and/or enforcement hereunder.

15.9.2 The Lenders agree to treat all confidential information as “confidential” and not to disclose it to anyone, other than to any potential assignee or transferee or to any of their affiliates and affiliated funds and any of their officers, directors, employees, professional advisers, auditors, partners and representative, to any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, or pursuant to any applicable law or regulation; and also agree to ensure that all confidential information is protected with security measures and degree of care that would apply to their own confidential information.

15.9.3 The Lenders further acknowledge 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 Lenders undertakes not to use any confidential information for any unlawful purpose.

16 **ARRANGER, AGENT AND SECURITY TRUSTEE**

16.1 **Appointment of the Agent**

Each Lender irrevocably appoints the Agent as its agent for the purposes of this Agreement and such of the Security Documents to which it may be appropriate for the Agent to be party. Accordingly each of the Lenders hereby authorises the Agent:

16.1.1 to execute such documents as may be approved by the Majority Lenders for execution by the Agent; and

16.1.2 (whether or not by or through employees or agents) to take such action on such Lender’s behalf and to exercise such rights, remedies, powers and discretions as are specifically delegated to the Agent by any Security Document, together with such powers and discretions as are reasonably incidental thereto.

16.2 **Agent's actions**

Any action taken by the Agent under or in relation to any of the Security Documents whether with requisite authority or on the basis of appropriate instructions received from the Majority Lenders (or as otherwise duly authorised) shall be binding on all the Banks.

16.3 **Agent's and Agent's duties**

16.3.1 The Agent shall promptly notify each Lender of (i) the contents of each notice, certificate or other document received by it from the Borrowers under or pursuant to clauses 8.1.1, 8.1.6, 8.1.9, 8.1.10, 8.1.13 and 8.1.17 and (ii) any information it receives which is material to the Borrowers' ability to repay the Loan; and

16.3.2 The Agent shall (subject to the other provisions of this clause 16) take (or instruct the Security Trustee to take) such action or, as the case may be, refrain from taking (or authorise the Security Trustee to refrain from taking) such action with respect to the exercise of any of its rights, remedies, powers and discretions as agent, as the Majority Lenders may direct.

16.4 **Security Trustee's and Agent's rights**

The Security Trustee and the Agent may:

16.4.1 in the exercise of any right, remedy, power or discretion in relation to any matter, or in any context, not expressly provided for by this Agreement or any of the other Security Documents, act or, as the case may be, refrain from acting (or authorise the Security Trustee to act or refrain from acting) in accordance with the instructions of the Lenders, and shall be fully protected in so doing;

16.4.2 unless and until it has received directions from the Majority Lenders, take such action or, as the case may be, refrain from taking such action (or authorise the Security Trustee to take or refrain from taking such action) in respect of a Default of which the Agent has actual knowledge as it shall consider advisable in the best interests of the Lenders (but shall not be obliged to do so);

16.4.3 refrain from acting (or authorise the Security Trustee to refrain from acting) in accordance with any instructions of the Lenders to institute any Proceedings arising out of or in connection with any of the Security Documents until it and/or the Security Trustee has been indemnified and/or secured to its satisfaction against any and all costs, expenses or liabilities (including legal fees) which it would or might incur as a result;

16.4.4 deem and treat (i) each Lender as the person entitled to the benefit of the Contribution of such Lender for all purposes of this Agreement unless and until a notice shall have been filed with the Agent pursuant to clause 15.3 and shall have become effective, and (ii) the office set opposite the name of each of the Lenders in schedule 1 as its lending office unless and until a written notice of change of lending office shall have been received by the Agent and the Agent may act upon any such notice unless and until the same is superseded by a further such notice;

- 16.4.5 rely as to matters of fact which might reasonably be expected to be within the knowledge of any Security Party upon a certificate signed by any director or officer of the relevant Security Party on behalf of the relevant Security Party; and
- 16.4.6 do anything which is in its opinion necessary or desirable to comply with any law or regulation in any jurisdiction.
- 16.5 **No Liability of Agent or Arranger**
- Neither of the Security Trustee, the Agent nor any of their respective employees and agents shall:
- 16.5.1 be obliged to make any enquiry as to the use of any of the proceeds of the Loan unless (in the case of the Agent) so required in writing by a Lender, in which case the Agent shall promptly make the appropriate request to the Borrowers; or
- 16.5.2 be obliged to make any enquiry as to any breach or default by the Borrowers or any other Security Party in the performance or observance of any of the provisions of the Security Documents or as to the existence of a Default unless (in the case of the Agent) the Agent has actual knowledge thereof or has been notified in writing thereof by a Bank, in which case the Agent shall promptly notify the Banks of the relevant event or circumstance; or
- 16.5.3 be obliged to enquire whether or not any representation or warranty made by the Borrowers or any other Security Party pursuant to this Agreement or any of the other Security Documents is true; or
- 16.5.4 be obliged to do anything (including, without limitation, disclosing any document or information) which would, or might in its opinion, be contrary to any law or regulation or be a breach of any duty of confidentiality or otherwise be actionable or render it liable to any person; or
- 16.5.5 be obliged to account to any Lender for any sum or the profit element of any sum received by it for its own account; or
- 16.5.6 be obliged to institute any Proceedings arising out of or in connection with any of the Security Documents other than on the instructions of the Majority Lenders; or
- 16.5.7 be liable to any Lender for any action taken or omitted under or in connection with any of the Security Documents unless caused by its gross negligence or wilful misconduct.

For the purposes of this clause 16, neither of the Security Trustee, the Arranger or the Agent shall be treated as having actual knowledge of any matter of which the corporate finance or any other division outside the agency or loan administration department of the Arranger, the Security Trustee or the Agent or the person for the time being acting as the Arranger, the Security Trustee or the Agent may become aware in the context of corporate finance, advisory or lending activities from time to time undertaken by the Arranger, the Security Trustee or the Agent or, as the case may be, the Security Trustee or Agent for any Security Party or any other person which may be a trade competitor of any Security Party or may otherwise have commercial interests similar to those of any Security Party.

16.6 Non-reliance on Arranger, Security Trustee or Agent

Each Lender acknowledges that it has not relied on any statement, opinion, forecast or other representation made by the Arranger, the Security Trustee or the Agent to induce it to enter into any of the Security Documents and that it has made and will continue to make, without reliance on the Arranger, the Security Trustee or the Agent and based on such documents as it considers appropriate, its own appraisal of the creditworthiness of the Security Parties and its own independent investigation of the financial condition, prospects and affairs of the Security Parties in connection with the making and continuation of such Lender's Commitment or Contribution under this Agreement. None of the Arranger, the Security Trustee and the Agent shall have any duty or responsibility, either initially or on a continuing basis, to provide any Lender with any credit or other information with respect to any Security Party whether coming into its possession before the making of the Loan or at any time or times thereafter other than as provided in clause 16.3.1.

16.7 No responsibility on Arranger, Security Trustee or Agent for Borrowers' performance

None of the Arranger, the Security Trustee or the Agent shall have any responsibility or liability to any Lender:

16.7.1 on account of the failure of any Security Party to perform its obligations under any of the Security Documents; or

16.7.2 for the financial condition of any Security Party; or

16.7.3 for the completeness or accuracy of any statements, representations or warranties in any of the Security Documents or any document delivered under any of the Security Documents; or

16.7.4 for the execution, effectiveness, adequacy, genuineness, validity, enforceability or admissibility in evidence of any of the Security Documents or of any certificate, report or other document executed or delivered under any of the Security Documents; or

16.7.5 to investigate or make any enquiry into the title of the Borrowers or any other Security Party to the Vessels or any other security or any part thereof; or

16.7.6 for taking or omitting to take any other action under or in relation to any of the Security Documents or any aspect of any of the Security Documents; or

16.7.7 on account of the failure of the Security Trustee to perform or discharge any of its duties or obligations under the Security Documents; or

16.7.8 otherwise in connection with the Security Documents or their negotiation or for acting (or, as the case may be, refraining from acting) in accordance with the instructions of the Lenders.

16.8 Reliance on documents and professional advice

Each of the Arranger, the Security Trustee and the Agent shall be entitled to rely on any communication, instrument or document believed by it to be genuine and correct and to have been signed or sent by the proper person and shall be entitled to rely as to legal or other professional matters on opinions and statements of any legal or other professional advisers selected or approved by it (including those in the Arranger's, Security Trustee's or Agent's employment).

16.9 **Other dealings**

Each of the Arranger, the Security Trustee and the Agent may, without any liability to account to the Lenders, accept deposits from, and generally engage in any kind of banking or other business with, and provide advisory or other services to, any Security Party or any company in the same group of companies as such Security Party or any of the Lenders as if it were not the Arranger, the Security Trustee or Agent.

16.10 **Rights of Agent, Agent as Lender; no partnership**

With respect to its own Commitment and Contribution (if any) the Security Trustee and the Agent shall have the same rights and powers under the Security Documents as any other Lender and may exercise the same as though it were not performing the duties and functions delegated to it under this Agreement and the term "Lenders" shall, unless the context clearly otherwise indicates, include the Security Trustee and the Agent in their respective individual capacity as a Lender. This Agreement shall not be construed so as to constitute a partnership between the parties or any of them.

16.11 **Amendments and waivers**

16.11.1 Subject to clause 16.11, the Arranger, the Security Trustee and/or the Agent (as the case may be) may, with the consent of the Majority Lenders (or if and to the extent expressly permitted by the other provisions of any of the Security Documents) and, if so instructed by the Majority Lenders, shall:

16.11.2 agree (or authorise the Security Trustee to agree) amendments or modifications to any of the Security Documents with the Borrowers and/or any other Security Party; and/or

16.11.3 vary or waive breaches of, or defaults under, or otherwise excuse performance of, any provision of any of the other Security Documents by the Borrowers and/or any other Security Party (or authorise the Security Trustee to do so).

Any such action so authorised and effected by the Agent shall be documented in such manner as the Security Trustee and/or the Agent (as the case may be) shall (with the approval of the Majority Lenders) determine, shall be promptly notified to the Lenders by the Security Trustee and/or the Agent (as the case may be) and (without prejudice to the generality of clause 16.2) shall be binding on the Lenders.

16.11.4 Except with the prior written consent of the Lenders, the Security Trustee and the Agent shall have no authority on behalf of the Lenders to agree (or authorise the Security Trustee to agree) with the Borrowers and/or any other Security Party any amendment or modification to any of the Security Documents or to grant (or authorise the Security Trustee to grant) waivers in respect of breaches or defaults or to vary or excuse (or authorise the Security Trustee to vary or excuse) performance of or under any of the Security Documents by the Borrowers and/or any other Security Party, if the effect of such amendment, modification, waiver or excuse would be to:

(a) reduce the Margin, postpone the due date or reduce the amount of any payment of principal, interest or other amount payable by any Security Party under any of the Security Documents;

- (b) change the currency in which any amount is payable by any Security Party under any of the Security Documents;
- (c) increase any Lender's Commitment;
- (d) extend any Maturity Date;
- (e) change any provision of any of the Security Documents which expressly or impliedly requires the approval or consent of all the Lenders such that the relevant approval or consent may be given otherwise than with the sanction of all the Lenders;
- (f) change the order of distribution under clauses 6.10 and 13.1;
- (g) change this clause 16.11;
- (h) change the definition of "Majority Lenders" in clause 1.2;
- (i) release any Security Party from the security constituted by any Security Document (except as required by the terms thereof or by law) or change the terms and conditions upon which such security or guarantee may be, or is required to be, released.

16.12 **Reimbursement and indemnity by Lenders**

Each Lender shall reimburse the Security Trustee and the Agent (rateably in accordance with such Lender's Commitment or, after the Loan has been drawn, its Contribution,) to the extent that the Security Trustee or the Agent is not reimbursed by the Borrowers, for the costs, charges and expenses incurred by the Security Trustee or the Agent which are expressed to be payable by the Borrowers under clause 5.3 including (in each case), without limitation, the fees and expenses of legal or other professional advisers provided that, if following any payment to the Security Trustee or the Agent by a Lender under this clause the Security Trustee or the Agent receives payment from the Borrowers in respect of the same costs, fees or expenses, the Security Trustee or the Agent shall upon receipt thereof reimburse the relevant Lender. Each Lender must on demand indemnify the Security Trustee or the Agent (rateably in accordance with such Lender's Commitment or, after the Loan has been drawn, its Contribution) against all liabilities, damages, costs and claims whatsoever incurred by the Security Trustee in connection with any of the Security Documents or the performance of its duties under any of the Security Documents or any action taken or omitted by the Security Trustee or, as the case may be, the Agent, under any of the Security Documents, unless such liabilities, damages, costs or claims arise from the Security Trustee's or as the case may be, the Agent's own gross negligence or wilful misconduct.

16.13 **Retirement of the Agent**

16.13.1 The Agent may, having given to the Borrowers and each of the Lenders not less than fifteen (15) days' notice of its intention to do so, retire from its appointment as the Agent under this Agreement, provided that no such retirement shall take effect unless there has been appointed by the Lenders as a successor agent:

- (a) a company in the same group of companies as the Agent,

- (b) a Lender nominated by the Majority Lenders or, failing such a nomination,
- (c) any reputable and experienced bank or financial institution nominated by the retiring Agent.

and written confirmation (in a form acceptable to the Lenders) of such acceptance agreeing to be bound by this Agreement in the capacity of the Agent as if it had been an original party to this Agreement.

Any corporation into which the retiring Agent and/or the retiring Security Trustee (as the case may be) may be merged or converted or any corporation with which the Security Trustee and/or the Agent (as the case may be) may be consolidated or any corporation resulting from any merger, conversion, amalgamation, consolidation or other reorganisation to which the Security Trustee or the Agent (as the case may be) shall be a party shall, to the extent permitted by applicable law, be the successor Agent or Security Trustee under this Agreement and the other Security Documents without the execution or filing of any document or any further act on the part of any of the parties to the Security Documents save that notice of any such merger, conversion, amalgamation, consolidation or other reorganisation shall forthwith be given to each Security Party and the Lenders. Prior to any such successor being appointed, the Agent agrees to consult with the Borrowers and the Lenders as to the identity of the proposed successor and to take account of any reasonable objections which the Borrowers and the Lenders may raise to such successor being appointed.

- 16.13.2 If the Majority Lenders, acting reasonably, are of the opinion that the Security Trustee or Agent is unable to fulfil its respective obligations under this Agreement in a professional and acceptable manner, then they may require the Security Trustee or Agent, by written notice, to resign in accordance with clause 16.13.1, which the Agent shall promptly do, and the terms of clause 16.13.1 shall apply to the appointment of any substitute Security Trustee or Agent, save that the same shall be appointed by the Majority Lenders and not by all of the Lenders.
- 16.13.3 Upon any such successor as aforesaid being appointed, the retiring Agent or, as the case may be, the Security Trustee shall be discharged from any further obligation under the Security Documents (but shall continue to have the benefit of this clause 16 in respect of any action it has taken or refrained from taking prior to such discharge) and its successor and each of the other parties to this Agreement shall have the same rights and obligations among themselves as they would have had if such successor had been a party to this Agreement in place of the retiring Agent or Security Trustee. The retiring Agent or Agent shall (at its own expense) provide its successor with copies of such of its records as its successor reasonably requires to carry out its functions under the Security Documents.

16.14 **Appointment and retirement of Security Trustee**

16.14.1 Appointment

Each of the Banks irrevocably appoints the Security Trustee as its Security Trustee and trustee for the purposes of the Security Documents, in each case on the terms set out in this Agreement. Accordingly, each of the Lenders and the Agent hereby authorises the Security Trustee

(whether or not by or through employees or agents) to take such action on its behalf and to exercise such rights, remedies, powers and discretions as are specifically delegated to the Security Trustee by this Agreement and/or the Security Documents, together with such powers and discretions as are reasonably incidental thereto.

16.14.2 Retirement

Without prejudice to clause 16.13, the Security Trustee may, having given to the Borrowers and each of the Lenders not less than fifteen (15) days' notice of its intention to do so, retire from its appointment as Security Trustee under this Agreement and any Trust Deed, provided that no such retirement shall take effect unless there has been appointed by the Lenders and the Agent as a successor Security Trustee and trustee:

- (a) a company in the same group of companies of the Security Trustee nominated by the Security Trustee which the Lenders hereby irrevocably and unconditionally agree to appoint or, failing such nomination,
- (b) a Lender or trust corporation nominated by the Majority Lenders or, failing such a nomination,
- (c) any bank or trust corporation nominated by the retiring Security Trustee,

and, in any case, such successor Security Trustee and trustee shall have duly accepted such appointment by delivering to the Agent (i) written confirmation (in a form acceptable to the Agent) of such acceptance agreeing to be bound by this Agreement in the capacity of Security Trustee as if it had been an original party to this Agreement and (ii) a duly executed Trust Deed.

Any corporation into which the retiring Security Trustee may be merged or converted or any corporation with which the Security Trustee may be consolidated or any corporation resulting from any merger, conversion, amalgamation, consolidation or other reorganisation to which the Security Trustee shall be a party shall, to the extent permitted by applicable law, be the successor Security Trustee under this Agreement, any Trust Deed and the other Security Documents without the execution or filing of any document or any further act on the part of any of the parties to this Agreement, any Trust Deed and the other Security Documents save that notice of any such merger, conversion, amalgamation, consolidation or other reorganisation shall forthwith be given to each Security Party and the Lenders. Prior to any such successor being appointed, the Security Trustee agrees to consult with the Borrowers as to the identity of the proposed successor and to take account of any reasonable objections which the Borrowers may raise to such successor being appointed.

Upon any such successor as aforesaid being appointed, the retiring Security Trustee shall be discharged from any further obligation under the Security Documents (but shall continue to have the benefit of this clause 16 in respect of any action it has taken or refrained from taking prior to such discharge) and its successor and each of the other parties to this Agreement shall have the same rights and obligations among themselves as they would have had if such successor had been a party to this Agreement in place of the retiring Security Trustee. The retiring Security Trustee shall (at its own expense) provide its successor with copies of such of its records as its successor reasonably requires to carry out its functions under the Security Documents.

16.15 **Powers and duties of the Security Trustee**

- 16.15.1 The Security Trustee shall have no duties, obligations or liabilities to any of the Lenders and the Agent beyond those expressly stated in any of the Security Documents. Each of the Agent and the Lenders hereby authorises the Security Trustee to enter into and execute:
- (a) each of the Security Documents to which the Security Trustee is or is intended to be a party; and
 - (b) any and all such other Security Documents as may be approved by the Agent in writing (acting on the instructions of the Majority Lenders) for entry into by the Security Trustee,

and, in each and every case, to hold any and all security thereby created upon trust for the Lenders and the Agent for the time being in the manner contemplated by this Agreement.

- 16.15.2 Subject to clause 16.15.3 the Security Trustee may, with the prior consent of the Majority Lenders communicated in writing by the Agent, concur with any of the Security Parties to:

- (a) amend, modify or otherwise vary any provision of the Security Documents to which the Security Trustee is or is intended to be a party; or
- (b) waive breaches of, or defaults under, or otherwise excuse performance of, any provision of the Security Documents to which the Security Trustee is or is intended to be a party; or
- (c) give any consents to any Security Party in respect of any provision of any Security Document.

Any such action so authorised and effected by the Security Trustee shall be promptly notified to the Lenders and the Agent by the Security Trustee and shall be binding on the other Banks.

- 16.15.3 The Security Trustee shall not concur with any Security Party with respect to any of the matters described in clause 16.11.4 without the consent of the Lenders communicated in writing by the Agent.

- 16.15.4 The Security Trustee shall (subject to the other provisions of this clause 16) take such action or, as the case may be, refrain from taking such action, with respect to any of its rights, powers and discretions as Security Trustee and trustee, as the Agent may direct. Subject as provided in the foregoing provisions of this clause, unless and until the Security Trustee has received such instructions from the Agent, the Security Trustee may, but shall not be obliged to, take (or refrain from taking) such action under or pursuant to the Security Documents referred to in clause 16.14 as the Security Trustee shall deem advisable in the best interests of the Banks provided that (for the avoidance of doubt), to the extent that this clause might otherwise be construed as authorising the Security Trustee to take, or refrain from taking, any action of the nature referred to in clause 16.15.2—and for which the prior consent of the Lenders is expressly required under clause 16.15.3—clauses 16.15.2 and 16.15.3 shall apply to the exclusion of this clause.

- 16.15.5 None of the Lenders nor the Agent shall have any independent power to enforce any of the Security Documents referred to in clause 16.14 or to exercise any rights, discretions or powers or to grant any consents or releases under or pursuant to such Security Documents or any of them or otherwise have direct recourse to the security and/or guarantees constituted by such Security Documents or any of them except through the Security Trustee.
- 16.15.6 For the purpose of this clause 16, the Security Trustee may, rely and act in reliance upon any information from time to time furnished to the Security Trustee by the Agent (whether pursuant to clause 16.15.7 or otherwise) unless and until the same is superseded by further such information, so that the Security Trustee shall have no liability or responsibility to any party as a consequence of placing reliance on and acting in reliance upon any such information unless the Security Trustee has actual knowledge that such information is inaccurate or incorrect.
- 16.15.7 Without prejudice to the foregoing each of the Agent and the Lenders (whether directly or through the Agent) shall provide the Security Trustee with such written information as it may reasonably require for the purpose of carrying out its duties and obligations under the Security Documents referred to in clause 16.14.
- 16.16 **Trust provisions**
- 16.16.1 The trusts constituted or evidenced in or by this Agreement and the Trust Deed shall remain in full force and effect until whichever is the earlier of:
- (a) the expiration of a period of eighty (80) years from the Execution Date; and
 - (b) receipt by the Security Trustee of confirmation in writing by the Agent that there is no longer outstanding any Indebtedness (actual or contingent) which is secured or guaranteed or otherwise assured by or under any of the Security Documents,
- and the parties to this Agreement declare that the perpetuity period applicable to this Agreement and the trusts declared by the Trust Deed shall for the purposes of the Perpetuities and Accumulations Act 1964 be the period of eighty (80) years from the Execution Date.
- 16.16.2 In its capacity as trustee in relation to the Security Documents specified in clause 16.14, the Security Trustee shall, without prejudice to any of the powers, discretions and immunities conferred upon trustees by law (and to the extent not inconsistent with the provisions of any of those Security Documents), have all the same powers and discretions as a natural person acting as the beneficial owner of such property and/or as are conferred upon the Security Trustee by any of those Security Documents.
- 16.16.3 It is expressly declared that, in its capacity as trustee in relation to the Security Documents specified in clause 16.14, the Security Trustee shall be entitled, subject to the consent of the Lenders, to invest moneys forming part of the security and which, in the opinion of the Security Trustee, may not be paid out promptly following receipt in the name or under the control of the Security Trustee in any of the investments for the time being authorised by law for the investment by trustees of trust moneys or in any other property or investments whether similar to the aforesaid or not or by placing the same on deposit in the name or under the control of the Security Trustee as the Security Trustee may think fit without being under any duty to diversify its investments and the Security Trustee may at any time vary or transpose any such property

or investments for or into any others of a like nature and shall not be responsible for any loss due to depreciation in value or otherwise of such property or investments. Any investment of any part or all of the security may, at the discretion of the Security Trustee, be made or retained in the names of nominees.

16.17 Independent action by Banks

None of the Banks shall enforce, exercise any rights, remedies or powers or grant any consents or releases under or pursuant to, or otherwise have a direct recourse to the security and/or guarantees constituted by any of the Security Documents without the prior written consent of the Majority Lenders but, provided such consent has been obtained, it shall not be necessary for any other Bank to be joined as an additional party in any Proceedings for this purpose.

16.18 Common Agent and Security Trustee

The Agent and the Security Trustee have entered into the Security Documents in their separate capacities (a) as agent for the Lenders under and pursuant to this Agreement (in the case of the Agent) and (b) as Security Trustee and trustee for the Lenders and the Agent under and pursuant to this Agreement, to hold the guarantees and/or security created by the Security Documents specified in clause 16.14 on the terms set out in such Security Documents (in the case of the Security Trustee). If and when the Agent and the Security Trustee are the same entity and any Security Document provides for the Agent to communicate with or provide instructions to the Security Trustee (and vice versa), all parties to this Agreement agree that any such communications or instructions on such occasions are unnecessary and are hereby waived.

16.19 Co-operation to achieve agreed priorities of application

The Lenders and the Agent shall co-operate with each other and with the Security Trustee and any receiver under the Security Documents in realising the property and assets subject to the Security Documents and in ensuring that the net proceeds realised under the Security Documents after deduction of the expenses of realisation are applied in accordance with clause 13.1.

16.20 The Prompt distribution of proceeds

Moneys received by any of the Banks (whether from a receiver or otherwise) pursuant to the exercise of (or otherwise by virtue of the existence of) any rights and powers under or pursuant to any of the Security Documents shall (after providing for all costs, charges, expenses and liabilities and other payments ranking in priority) be paid to the Agent for distribution (in the case of moneys so received by any of the Banks other than the Agent or the Security Trustee) and shall be distributed by the Agent or, as the case may be, the Security Trustee (in the case of moneys so received by the Agent or, as the case may be, the Security Trustee) in each case in accordance with clause 13.1. The Agent or, as the case may be, the Security Trustee shall make each such application and/or distribution as soon as is practicable after the relevant moneys are received by, or otherwise become available to, the Agent or, as the case may be, the Security Trustee save that (without prejudice to any other provision contained in any of the Security Documents) the Agent or, as the case may be, the Security Trustee (acting on the instructions of the Majority Lenders) or any receiver may credit any moneys received by it to a suspense account for so long and in such manner as the Agent or such receiver may from time to time determine with a view to preserving the rights of the Agent and/or the Security Trustee and/or the Arranger and/or the Account Bank and/or the Lenders or any of them to provide for the whole of their respective claims against the Borrowers or any other person liable.

16.21 **Reconventioning**

After consultation with the Borrowers and the Lenders and notwithstanding clause 16.11, the Agent shall be entitled to make such amendments to this Agreement as it may determine to be necessary to take account of any changes in market practices as a consequence of the European Monetary Union (whether as to the settlement or rounding of obligations, business days, the calculation of interest or otherwise whatsoever). So far as possible such amendments shall be such as to put the parties in the same position as if the event or events giving rise to the need to amend this Agreement had not occurred. Any amendment so made to this Agreement by the Agent shall be promptly notified to the other parties hereto and shall be binding on all parties hereto.

16.22 **Exclusivity**

Without prejudice to the Borrowers' rights, in certain instances, to give their consent thereunder, clauses 15 and 16 are for the exclusive benefit of the Banks.

17 **NOTICES AND OTHER MATTERS**

17.1 **Notices**

17.1.1 unless otherwise specifically provided herein, every notice under or in connection with this Agreement shall be given in English by letter delivered personally and/or sent by post and/or transmitted by fax and/or electronically;

17.1.2 in this clause "notice" includes any demand, consent, authorisation, approval, instruction, certificate, request, waiver or other communication.

17.2 **Addresses for communications, effective date of notices**

17.2.1 Subject to clause 17.2.2, clause 17.2.5 and 17.3 notices to the Borrowers shall be deemed to have been given and shall take effect when received in full legible form by the Borrowers at the address and/or fax number and/or email address appearing below (or at such other address or fax number or email address as the Borrowers may hereafter specify for such purpose to the Agent by notice in writing);

Address c/o Navios Shipmanagement Inc.

85 Akti Miaouli
185 38 Piraeus
Greece

Fax no: + 30 210 453 1984

Email: legal_corp@Navios.com

17.2.2 notwithstanding the provisions of clause 17.2.1 or clause 17.2.5, a notice of Default and/or a notice given pursuant to clause 10.2 or clause 10.3 to the Borrowers shall be deemed to have been given and shall take effect when delivered, sent or transmitted by the Banks or any of them to the Borrowers to the address or fax number or email address referred to in clause 17.2.1;

17.2.3 subject to clause 17.2.5, notices to the Agent and/or Account Bank and/or Security Trustee shall be deemed to be given, and shall take effect, when received in full legible form by the Agent and/or the Security Trustee at the address and/or fax number and/or email address appearing below (or at any such other address or fax number or email address as the Agent and/or the Security Trustee (as appropriate) may hereafter specify for such purpose to the Borrowers and the other Lenders by notice in writing);

Agent: Crédit Agricole Corporate and Investment Bank

Address: 12, place des Etats-Unis
CS 70052
92547 Montrouge Cedex
France

Fax: + 33 1 41 89 19 34

Attn: Agency and Middle Office Shipping – Clementine Costil / Romy Roussel

Email: clementine.costil@ca-cib.com / romy.rousseau@ca-cib.com

With copy to:

Attn: Shipping Metier – Typhaine Hirgorom

Fax: + 33 1 41 89 29 87

Email: typhaine.hirgorom@ca-cib.com / CSF-Box@ca-cib.com

17.2.4 subject to clause 17.2.5 and 17.3, notices to a Lender shall be deemed to be given and shall take effect when received in full legible form by such Lender at its address and/or fax number and/or email address specified in schedule 1 or in any relevant Transfer Certificate (or at any other address or fax number or email address as such Lender may hereafter specify for such purpose to the other Banks); and

17.2.5 if under clause 17.2.1 or clause 17.2.3 a notice would be deemed to have been given and been effective on a day which is not a working day in the place of receipt or is outside the normal business hours in the place of receipt, the notice shall be deemed to have been given and to have taken effect at the opening of business on the next working day in such place.

17.3 **Electronic Communication**

17.3.1 Any communication to be made by and/or between the Banks or any of them and the Security Parties or any of them under or in connection with the Security Documents or any of them may be made by electronic mail or other electronic means, if and provided that all such parties:

- (a) 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
- (b) notify each other of any change to their electronic mail address or any other such information supplied by them.

17.3.2 Any electronic communication made by and/or between the Banks or any of them and the Security Parties or any of them will be effective only when actually received in readable form and, in the case of any electronic communication made by the Borrowers or the Lenders to the Agent, only if it is addressed in such manner as the Agent shall specify for this purpose.

17.4 **Notices through the Agent**

Every notice under this Agreement or (unless otherwise provided therein) any other Security Document to be given by the Borrowers to any other party, shall be given to the Agent for onward transmission as appropriate and every notice under this Agreement to be given to the Borrowers shall (except as otherwise provided in the Security Documents) be given to the Borrowers by the Agent.

18 **BORROWERS' OBLIGATIONS**

18.1 **Joint and several**

Regardless of any other provision in any of the Security Documents, all obligations and liabilities whatsoever of the Borrowers herein contained are joint and several and shall be construed accordingly. Each of the Borrowers agrees and consents to be bound by the Security Documents to which it becomes a party notwithstanding that the other Borrower may not do so or be effectually bound and notwithstanding that any of the Security Documents may be invalid or unenforceable against the other Borrower, whether or not the deficiency is known to any Bank.

18.2 **Borrowers as principal debtors**

Each Borrower acknowledges that it is a principal and original debtor in respect of all amounts which may become payable by the Borrowers in accordance with the terms of any of the Security Documents and agrees that each Bank may continue to treat it as such, whether or not such Bank is or becomes aware that such Borrower is or has become a surety for the other Borrower.

18.3 **Indemnity**

The Borrowers undertake to keep the Banks fully indemnified on demand against all claims, damages, losses, costs and expenses arising from any failure of either Borrower to perform or discharge any purported obligation or liability of that Borrower which would have been the subject of this Agreement or any other Security Document had it been valid and enforceable and which is not or ceases to be valid and enforceable against the other Borrower on any ground whatsoever, whether or not known to any Bank including, without limitation, any irregular exercise or absence of any corporate power or lack of authority of, or breach of duty by, any person purporting to act on behalf of the other Borrower (or any legal or other limitation, whether under the Limitation Acts or otherwise or any disability or death, bankruptcy, unsoundness of mind, insolvency, liquidation, dissolution, winding up, administration, receivership, amalgamation, reconstruction or any other incapacity of any person whatsoever (including, in the case of a partnership, a termination or change in the composition of the partnership) or any change of name or style or constitution of any Security Party)).

18.4 **Liability unconditional**

None of the obligations or liabilities of the Borrowers under any Security Document shall be discharged or reduced by reason of:

- 18.4.1 the death, bankruptcy, unsoundness of mind, insolvency, liquidation, dissolution, winding-up, administration, receivership, amalgamation, reconstruction or other incapacity of any person whatsoever (including, in the case of a partnership, a termination or change in the composition of the partnership) or any change of name or style or constitution of either Borrower or any other person liable;
- 18.4.2 any Bank granting any time, indulgence or concession to, or compounding with, discharging, releasing or varying the liability of, either Borrower or any other person liable or renewing, determining, varying or increasing any accommodation, facility or transaction or otherwise dealing with the same in any manner whatsoever or concurring in, accepting, varying any compromise, arrangement or settlement or omitting to claim or enforce payment from either Borrower or any other person liable; or
- 18.4.3 anything done or omitted which but for this provision might operate to exonerate the Borrowers or all of them.

18.5 **Recourse to other security**

No Bank shall be obliged to make any claim or demand or to resort to any security or other means of payment now or hereafter held by or available to them for enforcing any of the Security Documents against either Borrower or any other person liable and no action taken or omitted by any Bank in connection with any such security or other means of payment will discharge, reduce, prejudice or affect the liability of the Borrowers under the Security Documents to which any of them is, or is to be, a party.

18.6 **Waiver of Borrowers' rights**

Each Borrower agrees with the Banks that, throughout the Facility Period, it will not, without the prior written consent of the Agent:

- 18.6.1 exercise any right of subrogation, reimbursement and indemnity against the other Borrower or any other person liable under the Security Documents;
- 18.6.2 demand or accept repayment in whole or in part of any Indebtedness now or hereafter due to such Borrower from the other Borrower or from any other person liable for such Indebtedness or demand or accept any guarantee against financial loss or any document or instrument created or evidencing an Encumbrance in respect of the same or dispose of the same;
- 18.6.3 take any steps to enforce any right against the other Borrower or any other person liable in respect of any such moneys; or
- 18.6.4 claim any set-off or counterclaim against the other Borrower or any other Security Party or claim or prove in competition with any Bank in the liquidation of the other Borrower or any other person liable or have the benefit of, or share in, any payment from or composition with, the other Borrower or any other person liable or any security granted under any Security

Document now or hereafter held by any Bank for any moneys owing under this Agreement or for the obligations or liabilities of any other person liable but so that, if so directed by the Agent, it will prove for the whole or any part of its claim in the liquidation of the other Borrower or other person liable on terms that the benefit of such proof and all money received by it in respect thereof shall be held on trust for the Banks and applied in or towards discharge of any moneys owing under this Agreement in such manner as the Agent shall require.

19 **GOVERNING LAW**

This Agreement and any non-contractual obligations arising out of or in connection with it is governed by and shall be construed in accordance with English law.

20 **JURISDICTION**

20.1 **Exclusive Jurisdiction**

For the benefit of the Banks, and subject to clause 20.4 below, the Borrowers hereby irrevocably agree that the courts of England shall have exclusive jurisdiction:

20.1.1 to settle any disputes or other matters whatsoever arising under or in connection with this Agreement or any non-contractual obligation arising out of or in connection with this Agreement and any disputes or other such matters arising in connection with the negotiation, validity or enforceability of this Agreement or any part thereof, whether the alleged liability shall arise under the laws of England or under the laws of some other country and regardless of whether a particular cause of action may successfully be brought in the English courts; and

20.1.2 to grant interim remedies or other provisional or protective relief.

20.2 **Submission and service of process**

Each Borrower accordingly irrevocably and unconditionally submits to the jurisdiction of the English courts. Without prejudice to any other mode of service each Borrower:

20.2.1 irrevocably empowers and appoints Hill Dickinson Services (London) Ltd. at present of The Broadgate Tower, 20 Primrose Street, London EC2A 2EW, England, as its agent to receive and accept on its behalf any process or other document relating to any proceedings before the English courts in connection with this Agreement;

20.2.2 agrees to maintain such an agent for service of process in England from the date hereof until the end of the Facility Period;

20.2.3 agrees that failure by a process agent to notify the Borrowers of service of process will not invalidate the proceedings concerned;

20.2.4 without prejudice to the effectiveness of service of process on its agent under clause 20.2.1 above but as an alternative method, consents to the service of process relating to any such proceedings by mailing or delivering a copy of the process to its address for the time being applying under clause 17.2;

20.2.5 agrees that if the appointment of any person mentioned in clause 20.2.1 ceases to be effective, the Borrowers shall immediately appoint a further person in England to accept service of process on its behalf in England and, failing such appointment within seven (7) days the Agent shall thereupon be entitled and is hereby irrevocably authorised by the Borrowers in those circumstances to appoint such person by notice to the Borrowers.

20.3 **Forum non conveniens and enforcement abroad**

Each Borrower:

20.3.1 waives any right and agrees not to apply to the English court or other court in any jurisdiction whatsoever to stay or strike out any proceedings commenced in England on the ground that England is an inappropriate forum and/or that Proceedings have been or will be started in any other jurisdiction in connection with any dispute or related matter falling within clause 20.1; and

20.3.2 agrees that a judgment or order of an English court in a dispute or other matter falling within clause 20.1 shall be conclusive and binding on the Borrowers and may be enforced against them in the courts of any other jurisdiction.

20.4 **Right of Security Trustee, but not Borrowers, to bring proceedings in any other jurisdiction**

20.4.1 Nothing in this clause 20 limits the right of any Lender to bring Proceedings, including third party proceedings, against any one or all Borrowers, or to apply for interim remedies, in connection with this Agreement in any other court and/or concurrently in more than one jurisdiction;

20.4.2 the obtaining by any Lender of judgment in one jurisdiction shall not prevent such Lender from bringing or continuing proceedings in any other jurisdiction, whether or not these shall be founded on the same cause of action.

20.5 **Enforceability despite invalidity of Agreement**

Without prejudice to the generality of clause 13.9, the jurisdiction agreement contained in this clause 20 shall be severable from the rest of this Agreement and shall remain valid, binding and in full force and shall continue to apply notwithstanding this Agreement or any part thereof being held to be avoided, rescinded, terminated, discharged, frustrated, invalid, unenforceable, illegal and/or otherwise of no effect for any reason.

20.6 **Effect in relation to claims by and against non-parties**

20.6.1 For the purpose of this clause “Foreign Proceedings” shall mean any Proceedings except proceedings brought or pursued in England arising out of or in connection with (i) or in any way related to any of the Security Documents or any assets subject thereto or (ii) any action of any kind whatsoever taken by any Bank pursuant thereto or which would, if brought by any or all of the Borrowers against the Banks, have been required to be brought in the English courts;


20.6.2 no Borrower shall bring or pursue any Foreign Proceedings against any Bank and shall use its best endeavours to prevent persons not party to this Agreement from bringing or pursuing any Foreign Proceedings against any Bank;

20.6.3 If, for any reason whatsoever, any Security Party and/or any person connected howsoever with any Security Party brings or pursues against any Bank any Foreign Proceedings, the Borrowers shall indemnify such Bank on demand in respect of any and all claims, losses, damages, demands, causes of action, liabilities, costs and expenses (including, but not limited to, legal costs) of whatsoever nature howsoever arising from or in connection with such Foreign Proceedings which such Bank (or the Agent on its behalf) certifies as having been incurred by it;

20.6.4 the Banks and the Borrowers hereby agree and declare that the benefit of this clause 20 shall extend to and may be enforced by any officer, employee, agent or business associate of any of the Banks against whom a Borrower brings a claim in connection howsoever with any of the Security Documents or any assets subject thereto or any action of any kind whatsoever taken by, or on behalf of or for the purported benefit of any Bank pursuant thereto or which, if it were brought against any Bank, would fall within the material scope of clause 20.1. In those circumstances this clause 20 shall be read and construed as if references to any Bank were references to such officer, employee, agent or business associate, as the case may be.

IN WITNESS whereof the parties to this Agreement have caused this Agreement to be duly executed on the date first above written.


SIGNED as a deed for and on behalf of)
EMERY SHIPPING CORPORATION)
by GEORGIOS PANAGAKIS)
(as Borrower under and pursuant to)
a power of attorney dated 18 September 2020))
in the presence of)




STAVROULA MYLONA
Ince
Akti Miaouli 47-49
Piraeus 185 36 Greece


SIGNED as a deed for and on behalf of)
RONDINE MANAGEMENT CORP.)
by GEORGIOS PANAGAKIS)
(as Borrower under and pursuant to)
a power of attorney dated 18 September 2020))
in the presence of)




STAVROULA MYLONA
Ince
Akti Miaouli 47-49
Piraeus 185 36 Greece


SIGNED by PANAGIOTIS FOKAS)
for and on behalf of)
CRÉDIT AGRICOLE CORPORATE)
AND INVESTMENT BANK)
(as a Lender))
in the presence of)




STAVROULA MYLONA
Ince
Akti Miaouli 47-49
Piraeus 185 36 Greece

SIGNED by PANAGIOTIS FOKAS)
for and on behalf of)
CRÉDIT AGRICOLE CORPORATE)
AND INVESTMENT BANK)
(as Arranger, Account Bank, Agent and Security Trustee))
in the presence of)




STAVROULA MYLONA
Ince
Akti Miaouli 47-49
Piraeus 185 36 Greece

Date 2 July 2020

NAVIOS MARITIME PARTNERS L.P.

as Borrower

THE BANKS AND FINANCIAL INSTITUTIONS

listed in Schedule 1

as Lenders

- and -

ABN AMRO BANK N.V.

as Agent and as Security Trustee

SUPPLEMENTAL AGREEMENT

**in relation to a Loan Agreement
dated 12 December 2019
for a loan facility of (originally) up to USD23,500,000**

**INCE
PIRAEUS**

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THIS SUPPLEMENTAL AGREEMENT is made on 2nd July 2020

BETWEEN

- (1) **NAVIOS MARITIME PARTNERS L.P., as Borrower;**
- (2) **THE BANKS AND FINANCIAL INSTITUTIONS listed in Schedule 1, as Lenders;**
- (3) **ABN AMRO BANK N.V., as Agent; and**
- (4) **ABN AMRO BANK N.V., as Security Trustee.**

BACKGROUND

- (A) By a loan agreement dated 12 December 2019 (the “**Loan Agreement**”) and made between (1) the Borrower, (2) the Lenders and (3) the Agent and the Security Trustee, the Lenders made available to the Borrower a term loan facility of (originally) up to USD23,500,000 upon the terms and for the purposes therein specified, of which USD3,715,074 remains outstanding on the date hereof.
- (B) The Borrower has requested the Lenders to consent to the transfer of m/v “**ESPERANZA N**” (registered in the ownership of Leto Shipping Corporation with IMO Number 9339868 (“**Ship C**”) from the Cypriot flag to the Liberian flag.
- (C) This Agreement sets out the terms and conditions on which the Lenders agree, with effect on and from the Effective Date, at the request of the Borrower, to the transfer of the Ship onto Liberian flag and to vary certain provisions of the Loan Agreement

IT IS AGREED as follows:

1 INTERPRETATION

- 1.1 **Defined expressions.** Words and expressions defined in the Loan Agreement shall have the same meanings when used in this Agreement unless the context otherwise requires.
- 1.2 **Definitions.** In this Agreement, unless the contrary intention appears:
 - “**Effective Date**” means the Banking Day on which all the conditions precedent referred to in Clause 3.1 have been fulfilled (or such other date as the Agent may agree with the Borrower);
 - “**Liberian Mortgage**” means the first preferred Liberian mortgage over the Ship required to be executed hereunder by Guarantor C in favour of the Security Trustee in an agreed form; and
 - “**Loan Agreement**” means the loan agreement dated 12 December 2019 referred to in Recital (A).
- 1.3 **Application of construction and interpretation provisions of Loan Agreement.** Clauses 1.3, 1.4 and 1.5 of the Loan Agreement apply, with any necessary modifications, to this Agreement.

2 AGREEMENT OF THE LENDERS

- 2.1 **Agreement of the Lenders.** The Lenders, relying upon the representations and warranties in Clause 4 and subject to Clause 3, agree to the transfer of the Ship onto Liberian flag, and the consequential amendments to the Loan Agreement in accordance with Clause 5.

2.2 **Effective Date.** The agreement of the Lenders contained in Clause 2.1 shall have effect on and from the Effective Date.

3 **CONDITIONS PRECEDENT**

3.1 **Conditions Precedent.** The conditions referred to in Clause 2.1 are that the Agent, or its authorised representative, shall have received the following documents:

- (a) certified copies of all documents which evidence or relate to the constitution of the Borrower and Guarantor C and their current corporate existence;
- (b) Corporate authorities
 - (i) a list of directors and officers of the Borrower and Guarantor C specifying the names and positions of such persons, certified by an officer of such Security Party to be true, complete and up to date;
 - (ii) originals of resolutions of the directors and shareholders of the Borrower and Guarantor C approving such of this Agreement and the Liberian Mortgage to which such Security Party is a party and authorising the execution and delivery hereof and thereof and performance of the relevant Security Party's obligations hereunder and thereunder, additionally certified by an officer of the relevant Security Party as having been duly passed at a duly convened meeting of the directors and shareholders of such relevant Security Party and not having been amended, modified or revoked and being in full force and effect;
 - (iii) an original of any power of attorney issued by the Borrower and Guarantor C pursuant to such resolutions referred to at paragraph (ii) above; and
 - (iv) original "bringdown" certificate from the secretary of the Manager for the purpose of confirming each Guarantor's and the Manager's approval to its endorsement of this Supplemental Agreement;
- (c) Ship C
evidence that Ship C:
 - (i) is registered in the Liberian Registry in the name of Guarantor C under the laws and flag of Liberia; and
 - (ii) is in the absolute and unencumbered ownership of Guarantor C save for the Liberian Mortgage;
- (d) Liberian Mortgage registration
evidence that the Liberian Mortgage has been duly registered against Ship C in accordance with the laws of Liberia;

- (e) Ship certificates
copies of the DOC, SMC and ISSC for the Ship and any other certificates to be issued pursuant to the ISM Code and/or ISPS Code and any other trading certificates which need to be amended or issued to reflect the change of flag of Ship C to the Liberian flag;
- (f) Insurers' confirmation
confirmation from the insurers of the Ship, that the insurances in respect of the Ship remain in place and unaffected notwithstanding the change of flag to Liberian flag respectively;
- (g) Laws of the Marshall Islands and Liberia opinion
an opinion of the Agent's nominated special legal advisers in respect of the laws of the Marshall Islands and Liberia in form and substance acceptable to the Lenders;
- (h) Laws of England opinion
an opinion of the Agent's nominated special legal advisers in respect of the laws of England in form and substance acceptable to the Lenders;
- (i) London agent
documentary evidence that Messrs Hill Dickinson Services (London) Ltd at present of The Broadgate Tower, 20 Primrose Street, London, EC2A 2EW, England have accepted their appointment in respect of this Agreement;
- (j) Endorsement
the endorsement at the end of this Agreement signed by each Security Party (other than the Borrower); and
- (k) Further opinions, etc.
any further opinions, consents, agreements and documents in connection with this Agreement which the Agent may request.

3.1.2 If the Lenders, in their sole discretion, agree to allow the deletion of the Ship from Cyprus flag and her registration on Liberian flag before all of the documents and evidence required by Clause 3.1 have been delivered to or to the order of the Agent, the Borrower shall deliver all outstanding documents and evidence to or to the order of the Agent no later than the date specified by the Agent therefor.

4 REPRESENTATIONS AND WARRANTIES

Repetition of Loan Agreement representations and warranties. The Borrower represents and warrants to each Bank that the representations and warranties in Clause 7 of the Loan Agreement, updated with appropriate modifications to refer to this Agreement, remain true and not misleading if repeated on the date of this Agreement with reference to the circumstances now existing.

5 AMENDMENTS TO LOAN AGREEMENT AND OTHER SECURITY DOCUMENTS

5.1 **Specific amendments to Loan Agreement.** With effect on and from the Effective Date the Loan Agreement shall be, and shall be deemed by this Agreement to be, amended as follows:

5.1.1 by deleting the definition of "**Vessel C**" in Schedule 6 thereof and replacing it with the following:

“**Ship C**” means the 2006-built container ship, with IMO Number 9339868, which is registered in the ownership of Guarantor C on the Liberian flag with the name “**ESPERANZA N**”; and

5.1.2 by construing references throughout to “this Agreement”, “hereunder” and other like expressions as if the same referred to the Loan Agreement as amended and supplemented by this Agreement.

5.2 Amendments to Security Documents. With effect on and from the date hereof each of the Security Documents other than the Loan Agreement, shall be, and shall be deemed by this Agreement to be, amended as follows:

- (a) the definition of, and references throughout each of the Security Documents to, the Loan Agreement and any of the other Security Documents shall be construed as if the same referred to the Loan Agreement and those Security Documents as amended and supplemented by this Agreement;
- (b) by construing references throughout each of the Security Documents to “this Agreement”, “this Deed”, “hereunder” and other like expressions as if the same referred to such Security Documents as amended and supplemented by this Agreement;
- (c) any references throughout the General Assignment in respect of Ship C and each of the other Security Documents to Ship C shall be construed as if the same referred to Ship C as registered in the name of Guarantor C on the Liberian flag with the name “ESPERANZA N”; and
- (d) any references throughout the General Assignment in respect of the Ship and each of the other Security Documents to the Mortgage over the Ship shall be construed as if the same referred to the first preferred Liberian mortgage over the Ship.

5.3 **Security Documents to remain in full force and effect.** The Security Documents shall remain in full force and effect as amended and supplemented by (a) the amendments to the Security Documents contained or referred to in Clauses 5.1 and 5.2 and (b) such further or consequential modifications as may be necessary to give full effect to the terms of this Agreement.

6 FURTHER ASSURANCES

6.1 **Borrower to execute further documents etc.** The Borrower shall, and shall procure that any other party to any Security Document shall:

- (a) execute and deliver to the Agent (or as it may direct) any assignment, mortgage, power of attorney, proxy or other document, governed by the law of England or such other country as the Agent may, in any particular case, specify; and
- (b) effect any registration or notarisation, give any notice or take any other step, which the Agent may, by notice to the Borrower or other party,

specify for any of the purposes described in Clause 6.2 or for any similar or related purpose.

- 6.2 **Purposes of further assurances.** Those purposes are:
- (a) validly and effectively to create any Encumbrance or right of any kind which the Lenders intended should be created by or pursuant to the Loan Agreement or any other Security Document, each as amended and supplemented by this Agreement; and
 - (b) implementing the terms and provisions of this Agreement.
- 6.3 **Terms of further assurances.** The Agent may specify the terms of any document to be executed by the Borrower or any other party under Clause 6.1, and those terms may include any covenants, powers and provisions which the Agent considers appropriate to protect its interests.
- 6.4 **Obligation to comply with notice.** The Borrower shall comply with a notice under Clause 6.1 by the date specified in the notice.
- 6.5 **Additional corporate action.** At the same time as the Borrower or any other party deliver to the Agent any document executed under Clause 6.1(a), the Borrower or such other party shall also deliver to the Agent a certificate signed by 2 of the Borrower's, or that other party's directors which shall:
- (a) set out the text of resolutions of the Borrower or that other party's directors specifically authorising the execution of the document specified by the Agent; and
 - (b) 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 and is valid under the Borrower's or that other party's articles of association or other constitutional documents.

7 **EXPENSES**

Expenses. The provisions of Clause 20 (Expenses) of the Loan Agreement shall apply to this Agreement as if they were expressly incorporated in this Agreement with any necessary modifications.

8 **NOTICES**

General. The provisions of Clause 28 (Notices) of the Loan Agreement shall apply to this Agreement as if they were expressly incorporated in this Agreement with any necessary modifications.

9 **SUPPLEMENTAL**

9.1 **Counterparts.** This Agreement may be executed in any number of counterparts.

9.2 **Third party rights.** A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Agreement.

10 **LAW AND JURISDICTION**

Incorporation of the Loan Agreement provisions. The provisions of Clause 18 (Law) and Clause 19 (Jurisdiction) of the Loan Agreement shall apply to this Agreement as if they were expressly incorporated in this Agreement with any necessary modifications.

THE BORROWER

SIGNED by GEORGIOS PANAGAKIS
for and on behalf of
NAVIOS MARITIME PARTNERS L.P.
in the presence of:

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)
) 


THE LENDERS

SIGNED by VICTORIA LIAOU
and by PANAGIOTIS FOKAS
for and on behalf of
ABN AMRO BANK N.V.

)
) 
)
)

THE AGENT

SIGNED by VICTORIA LIAOU
and by PANAGIOTIS FOKAS
for and on behalf of
ABN AMRO BANK N.V.

)
) 
)
)

THE SECURITY TRUSTEE

SIGNED by VICTORIA LIAOU
and by PANAGIOTIS FOKAS
for and on behalf of
ABN AMRO BANK N.V.

)
) 
)
)

Witness to all the above
Signatures

Name:
Address:

STAVROULA MYLONA
Ince
Akti Miaouli 47-49
Piraeus 185 36 Greece

)
) 
)
)

COUNTERSIGNED this 2nd day of July 2020 by the following parties who, by executing the same, confirm and acknowledge that they have read and understood the terms and conditions of the above Supplemental Agreement, that they agree in all respects to the same and that the Security Documents to which they are respectively a party shall remain in full force and effect and shall continue to stand as security for the obligations of the Borrower under the Loan Agreement, as amended by the above Supplemental Agreement, and each of them hereby reaffirms the Security Documents to which it is a party as the same is amended by the above Supplemental Agreement.

/s/ Georgios Panagakis

GEORGIOS PANAGAKIS
duly authorized on behalf of
LETO SHIPPING CORPORATION

/s/ Georgios Panagakis

GEORGIOS PANAGAKIS
duly authorized on behalf of
NAVIOS SHIPMANAGEMENT INC.

/s/ Georgios Panagakis

GEORGIOS PANAGAKIS
duly authorised on behalf of
NAVIOS MARITIME OPERATING L.L.C.

* Not Required

duly authorised on behalf of
SYNERGY MARINE PTE. LTD.

* Not Required

duly authorised on behalf of
**SYNERGY MARITIME RECRUITMENT
SERVICES PVT LTD**

Date 30 September 2020

NAVIOS MARITIME PARTNERS L.P.

as Borrower

THE BANKS AND FINANCIAL INSTITUTIONS

listed in Schedule 1

as Lenders

- and -

ABN AMRO BANK N.V.

as Agent and as Security Trustee

SECOND SUPPLEMENTAL AGREEMENT

**in relation to a Loan Agreement
dated 12 December 2019 (as amended)
for a loan facility of (originally) up to USD23,500,000**

**INCE
PIRAEUS**

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BETWEEN

- (1) **NAVIOS MARITIME PARTNERS L.P., as Borrower;**
- (2) **THE BANKS AND FINANCIAL INSTITUTIONS listed in Schedule 1, as Lenders;**
- (3) **ABN AMRO BANK N.V., as Agent; and**
- (4) **ABN AMRO BANK N.V., as Security Trustee.**

BACKGROUND

- (A) By a loan agreement dated 12 December 2019 (as amended and supplemented pursuant to a supplemental agreement dated 2 July 2020, the “**Loan Agreement**”) and made between (1) the Borrower, (2) the Lenders, (3) the Agent and (4) the Security Trustee, the Lenders made available to the Borrower a term loan facility of (originally) up to USD23,500,000 upon the terms and for the purposes therein specified, of which USD3,542,280 remains outstanding on the date hereof.
- (B) The Borrower has made a request to the Lenders that they consent to extend the Maturity Date from 30 September 2020 to 30 June 2021.
- (C) This Agreement sets out the terms and conditions on which the Lenders agree, with effect on and from the Effective Date, at the request of the Borrower, to extend the Maturity Date referred to in Recital (B) and to make consequential amendments to the Loan Agreement

IT IS AGREED as follows:

1 INTERPRETATION

- 1.1 **Defined expressions.** Words and expressions defined in the Loan Agreement shall have the same meanings when used in this Agreement unless the context otherwise requires.
- 1.2 **Definitions.** In this Agreement, unless the contrary intention appears:
 - “**Effective Date**” means the Banking Day on which all the conditions precedent referred to in Clause 3.1 have been fulfilled (or such other date as the Agent may agree with the Borrower);
 - “**Liberian Mortgage Addendum**” means an addendum to the Mortgage over Ship C required to be executed by Guarantor C in favour of the Security Trustee in agreed form; and
 - “**Loan Agreement**” means the loan agreement dated 12 December 2019 (as amended) referred to in Recital (A).
- 1.3 **Application of construction and interpretation provisions of Loan Agreement.** Clauses 1.3, 1.4 and 1.5 of the Loan Agreement apply, with any necessary modifications, to this Agreement.

2 AGREEMENT OF THE LENDERS

- 2.1 **Agreement of the Lenders.** The Lenders, relying upon the representations and warranties in Clause 4 and subject to Clause 3, agree to the extension of the Maturity Date, and the consequential amendments to the Loan Agreement in accordance with Clause 5.

2.2 **Effective Date.** The agreement of the Lenders contained in Clause 2.1 shall have effect on and from the Effective Date.

3 **CONDITIONS PRECEDENT**

3.1 **Conditions Precedent.** The conditions referred to in Clause 2.1 are that the Agent, or its authorised representative, shall have received the following documents:

- (a) certified copies of all documents which evidence or relate to the constitution of the Borrower and Guarantor C and their current corporate existence;
- (b) Corporate authorities
 - (i) a list of directors and officers of the Borrower and Guarantor C specifying the names and positions of such persons, certified by an officer of such Security Party to be true, complete and up to date;
 - (ii) originals of resolutions of the directors and shareholders of the Borrower and Guarantor C approving such of this Agreement and the Liberian Mortgage Addendum to which such Security Party is a party and authorising the execution and delivery hereof and thereof and performance of the relevant Security Party's obligations hereunder and thereunder, additionally certified by an officer of the relevant Security Party as having been duly passed at a duly convened meeting of the directors and shareholders of such relevant Security Party and not having been amended, modified or revoked and being in full force and effect;
 - (iii) an original of any power of attorney issued by the Borrower and Guarantor C pursuant to such resolutions referred to at paragraph (ii) above; and
 - (iv) original "bringdown" certificates from the secretary of the Manager and the secretary of the Shareholder for the purpose of confirming respectively the Manager's and the Shareholder's approval to their endorsement of this Second Supplemental Agreement;
- (c) Liberian Mortgage Addendum registration
evidence that the Liberian Mortgage Addendum has been duly registered against Ship C in accordance with the laws of Liberia;
- (d) Laws of the Marshall Islands and Liberia opinion
an opinion of the Agent's nominated special legal advisers in respect of the laws of the Marshall Islands and Liberia in form and substance acceptable to the Lenders;
- (e) Laws of England opinion
an opinion of the Agent's nominated special legal advisers in respect of the laws of England in form and substance acceptable to the Lenders;
- (f) Amendment Fee
payment by the Borrower to the Agent of a non-refundable amendment fee in the amount of USD30,000;

- (g) London agent
documentary evidence that Messrs Hill Dickinson Services (London) Ltd at present of The Broadgate Tower, 20 Primrose Street, London, EC2A 2EW, England have accepted their appointment in respect of this Agreement;
- (h) Endorsement
the endorsement at the end of this Agreement signed by each Security Party (other than the Borrower); and
- (i) Further opinions, etc.
any further opinions, consents, agreements and documents in connection with this Agreement which the Agent may request.

4 REPRESENTATIONS AND WARRANTIES

Repetition of Loan Agreement representations and warranties. The Borrower represents and warrants to each Bank that the representations and warranties in Clause 7 of the Loan Agreement, updated with appropriate modifications to refer to this Agreement, remain true and not misleading if repeated on the date of this Agreement with reference to the circumstances now existing.

5 AMENDMENTS TO LOAN AGREEMENT AND OTHER SECURITY DOCUMENTS

- 5.1 **Specific amendments to Loan Agreement.** With effect on and from the Effective Date the Loan Agreement shall be, and shall be deemed by this Agreement to be, amended as follows:
 - 5.1.1 by deleting the definition of “**Maturity Date**” in Clause 1.1 thereof and replacing it with the following:
““**Maturity Date**” means 30 June 2021;”;
 - 5.1.2 by deleting the definition of “**Margin**” in Clause 1.1 thereof and replacing it with:
““**Margin**” means, from the date of this Agreement until 28 February 2021, 4.00 per cent. (4%) per annum and at all times thereafter, 6.00 per cent. (6%) per annum;”;
 - 5.1.3 by construing the definition of “**Mortgage**” in respect of Ship C in Clause 1.1 thereof to refer to the Mortgage as amended and supplemented by the Liberian Mortgage Addendum;
 - 5.1.4 by deleting Clause 8.1 thereof in its entirety and replacing it with the following:
“**8.1 Repayment of the Loan.** The Borrower shall repay the Loan outstanding by:
 - (a) three consecutive three-monthly instalments, each in an amount equal to \$172,794; and
 - (b) A balloon instalment in an amount equal to \$3,023,898.”;

- 5.1.5 by deleting Clause 8.2 thereof in its entirety and replacing it with the following:
“**8.2 Repayment Dates.** The first instalment shall be repaid on 31 December 2020, the second instalment shall be repaid on 31 March 2021 and the third instalment and the balloon instalment shall be repaid on the Maturity Date.”;
- 5.1.6 by adding a new Clause 8.10 (c) as follows:
“(c) 28th February 2021 if Ship C is without employment under a time charterparty, contract of affreightment or other contract of employment for more than forty five (45) days in aggregate during the period 30 September 2020 to 28th February 2021.”
- 5.1.7 by construing references throughout to “this Agreement”, “hereunder” and other like expressions as if the same referred to the Loan Agreement as amended and supplemented by this Agreement.
- 5.2 **Amendments to Security Documents.** With effect on and from the date hereof each of the Security Documents other than the Loan Agreement, shall be, and shall be deemed by this Agreement to be, amended as follows:
- (a) the definition of, and references throughout each of the Security Documents to, the Loan Agreement and any of the other Security Documents shall be construed as if the same referred to the Loan Agreement and those Security Documents as amended and supplemented by this Agreement; and
 - (b) by construing references throughout each of the Security Documents to “this Agreement”, “this Deed”, “hereunder” and other like expressions as if the same referred to such Security Documents as amended and supplemented by this Agreement.
- 5.3 **Security Documents to remain in full force and effect.** The Security Documents shall remain in full force and effect as amended and supplemented by (a) the amendments to the Security Documents contained or referred to in Clauses 5.1 and 5.2 and (b) such further or consequential modifications as may be necessary to give full effect to the terms of this Agreement.
- 6 **FURTHER ASSURANCES**
- 6.1 **Borrower to execute further documents etc.** The Borrower shall, and shall procure that any other party to any Security Document shall:
- (a) execute and deliver to the Agent (or as it may direct) any assignment, mortgage, power of attorney, proxy or other document, governed by the law of England or such other country as the Agent may, in any particular case, specify; and
 - (b) effect any registration or notarisation, give any notice or take any other step, which the Agent may, by notice to the Borrower or other party,
- specify for any of the purposes described in Clause 6.2 or for any similar or related purpose.
- 6.2 **Purposes of further assurances.** Those purposes are:
- (a) validly and effectively to create any Encumbrance or right of any kind which the Lenders intended should be created by or pursuant to the Loan Agreement or any other Security Document, each as amended and supplemented by this Agreement; and

(b) implementing the terms and provisions of this Agreement.

6.3 **Terms of further assurances.** The Agent may specify the terms of any document to be executed by the Borrower or any other party under Clause 6.1, and those terms may include any covenants, powers and provisions which the Agent considers appropriate to protect its interests.

6.4 **Obligation to comply with notice.** The Borrower shall comply with a notice under Clause 6.1 by the date specified in the notice.

6.5 **Additional corporate action.** At the same time as the Borrower or any other party deliver to the Agent any document executed under Clause 6.1(a), the Borrower or such other party shall also deliver to the Agent a certificate signed by 2 of the Borrower's, or that other party's directors which shall:

- (a) set out the text of resolutions of the Borrower or that other party's directors specifically authorising the execution of the document specified by the Agent; and
- (b) 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 and is valid under the Borrower's or that other party's articles of association or other constitutional documents.

7 EXPENSES

Expenses. The provisions of Clause 20 (Expenses) of the Loan Agreement shall apply to this Agreement as if they were expressly incorporated in this Agreement with any necessary modifications.

8 NOTICES

General. The provisions of Clause 28 (Notices) of the Loan Agreement shall apply to this Agreement as if they were expressly incorporated in this Agreement with any necessary modifications.

9 SUPPLEMENTAL

9.1 **Counterparts.** This Agreement may be executed in any number of counterparts.

9.3 **Third party rights.** A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Agreement.


10 LAW AND JURISDICTION

Incorporation of the Loan Agreement provisions. The provisions of Clause 18 (Law) and Clause 19 (Jurisdiction) of the Loan Agreement shall apply to this Agreement as if they were expressly incorporated in this Agreement with any necessary modifications.

IN WITNESS whereof the parties to this Agreement have caused this Agreement to be duly executed on the date first above written.

THE BORROWER

SIGNED by **GEORGIOS PANAGAKIS**
for and on behalf of
NAVIOS MARITIME PARTNERS L.P.

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THE LENDERS

SIGNED by **STAVROULA MYLONA**
and by **PANAGIOTIS FOKAS**
for and on behalf of
ABN AMRO BANK N.V.

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THE AGENT

SIGNED by **STAVROULA MYLONA**
and by **PANAGIOTIS FOKAS**
for and on behalf of
ABN AMRO BANK N.V.

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THE SECURITY TRUSTEE

SIGNED by **STAVROULA MYLONA**
and by **PANAGIOTIS FOKAS**
for and on behalf of
ABN AMRO BANK N.V.

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Witness to all the above

Signatures **IOANNA MITSAKI**
Name: **Ince**
Address: **Akti Miaouli 47-49**
Piraeus 18536 Greece

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COUNTERSIGNED this 30th day of September 2020 by the following parties who, by executing the same, confirm and acknowledge that they have read and understood the terms and conditions of the above Second Supplemental Agreement, that they agree in all respects to the same and that the Security Documents to which they are respectively a party shall remain in full force and effect and shall continue to stand as security for the obligations of the Borrower under the Loan Agreement, as amended by the above Second Supplemental Agreement, and each of them hereby reaffirms the Security Documents to which it is a party as the same is amended by the above Second Supplemental Agreement.

/s/ Georgios Panagakis

GEORGIOS PANAGAKIS
duly authorized on behalf of
LETO SHIPPING CORPORATION

/s/ Georgios Panagakis

GEORGIOS PANAGAKIS
duly authorized on behalf of
NAVIOS SHIPMANAGEMENT INC.

/s/ Georgios Panagakis

GEORGIOS PANAGAKIS
duly authorised on behalf of
NAVIOS MARITIME OPERATING L.L.C.