
**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
UNDER THE SECURITIES EXCHANGE ACT OF 1934**

Date of Report: November 3, 2017

Commission File Number 001-34153

GLOBAL SHIP LEASE, INC.
(Exact name of Registrant as specified in its Charter)

**c/o Portland House,
Stag Place,
London SW1E 5RS,
United Kingdom**
(Address of principal executive office)

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

Information Contained in this Form 6-K Report

Indenture

On October 31, 2017 (the "Issue Date"), Global Ship Lease, Inc. (the "Company") completed its previously announced private placement (the "Offering") of \$360.0 million aggregate principal amount of 9.875% first priority secured notes due 2022 (the "Notes"). Concurrent with the Offering, the Company also entered into a \$54.8 million super senior secured term loan credit facility (the "Term Loan").

The Company will use the net proceeds of the Offering, together with cash on hand, to refinance the Company's existing 10.000% first priority secured notes due 2019. In addition, all outstanding borrowings under each of the Company's existing revolving credit facility and existing secured term loan have been repaid using borrowings under the Term Loan.

The Notes were issued under an indenture, dated as of the Issue Date (the "Indenture"), among the Company, the guarantors party thereto and Citibank, N.A., London Branch, as trustee, security agent, paying agent, registrar and transfer agent.

The description of the Indenture and the Notes contained in this Form 6-K Report does not purport to be complete and is qualified in its entirety by reference to the full text of the Indenture and the form of the Notes, which are filed herewith as Exhibits 99.1 and 99.2, respectively, and are incorporated herein by reference.

Interest and Maturity

The Notes bear interest at 9.875% per annum and mature on November 15, 2022. Interest is payable semi-annually in arrears on each May 15 and November 15, commencing on May 15, 2018, to holders of record at the close of business on May 1 or November 1, as the case may be, immediately preceding each such interest payment date.

Security

The Notes are secured by first priority ship mortgages on 18 vessels owned by certain subsidiary guarantors (the "Mortgaged Vessels") and certain other associated property, contract rights and bank accounts, as well as share pledges over the subsidiary guarantors that own the Mortgaged Vessels (collectively, the "Initial Collateral"). In the future, vessels and certain other associated property and contract rights may be pledged in addition to or in substitution for Initial Collateral. As used herein, "Collateral" refers to the Initial Collateral and any such additional or substitute collateral.

The Collateral also secures on a first priority basis up to \$54.8 million in principal of indebtedness, plus interest and costs payable, under the Term Loan, which is described below.

Guarantees

As of the Issue Date, the Notes are fully and unconditionally guaranteed, jointly and severally, on a senior basis, by Global Ship Lease Services Limited ("GSLS Limited") and each of the Company's 18 subsidiaries that own Mortgaged Vessels.

Optional Redemption

The Company may redeem the Notes in whole or in part, at its option, at any time before November 15, 2019, at a redemption price equal to 100% of the principal amount plus a make-whole premium as provided in the Indenture. The Company may redeem the Notes in whole or in part, at its option, at any time on or after November 15, 2019, at the redemption prices (expressed as percentages of principal amount) set forth below plus accrued and unpaid interest, if any, on the Notes redeemed, to the applicable redemption date, if redeemed during the twelve-month period beginning on November 15 of the years indicated below, subject to the rights of holders of Notes on the relevant record date to receive interest on the relevant interest payment date:

<u>Year</u>	<u>Percentage</u>
2016	104.938%
2017	102.469%
2018	100.000%

Additional Amounts and Redemption for Changes in Withholding Taxes

Except as required by law, the Company will make payments on the Notes free of withholding or deduction for taxes. If withholding or deduction is required, the Company will, subject to certain customary exceptions, be required to pay additional amounts so that the net amounts holders of the Notes receive will equal the amount holders of the Notes would have received if withholding or deduction had not been imposed. If, as a result of a change in law, the Company is required to pay such additional amounts, the Company may redeem the Notes in whole but not in part, at any time at 100% of their principal amount, plus accrued and unpaid interest, if any, to the redemption date.

Change of Control

Upon the occurrence of certain change of control events, holders of the Notes will have the right to require the Company to repurchase some or all of their Notes at 101% of their face amount, plus accrued and unpaid interest to the repurchase date.

Proceeds of Certain Asset Sales and Total Loss Events

The Company will be obligated in certain instances to make offers to purchase outstanding Notes with the net proceeds of certain sales or other dispositions of assets or upon the occurrence of a Total Loss Event with respect to Collateral. The purchase price of the Notes will be 102% (in the case of an Asset Sale (as defined in the Indenture)) or 100% (in the case of a Total Loss Event (as defined in the Indenture)) of their principal amount plus accrued and unpaid interest, if any.

Annual Mandatory Offer and Amortization

The Company will be required to repay, redeem or repurchase an aggregate amount of the Notes and Term Loan equal to \$40.0 million per year in 2018, 2019 and 2020 and \$35.0 million per year thereafter, subject to certain conditions, including an obligation to make an annual offer to repurchase a certain principal amount of Notes so long as the Term Loan is outstanding. Any repurchase or redemption of Notes in compliance with this requirement will be at a price of 102% of their principal amount plus accrued and unpaid interest, if any.

Certain Covenants

The Indenture contains covenants that, among other things, limit the ability of the Company and its subsidiaries to:

- incur additional indebtedness or issue certain preferred stock;
- pay dividends on, redeem or repurchase their capital stock, provide financial support or make restricted transfers of assets to non-guarantor subsidiaries;
- create certain liens;
- transfer or sell certain assets;
- enter into certain transactions other than arm's length transactions; and
- merge, consolidate or sell all or substantially all of their properties and assets.

These covenants are subject to important exceptions and qualifications, which are provided in the Indenture.

Governing Law

The Indenture and the Notes are governed by New York law.

Term Loan

In connection with the Offering, the Company, as initial borrower, and GSLS Limited together with each of the Company's 18 subsidiaries that own Mortgaged Vessels, as initial guarantors, entered into a new credit agreement, dated October 25, 2017, together with security and other agreements, with Citibank, N.A., London Branch, as original lender, lead arranger and book-runner, Citibank Europe plc, UK Branch, as facility agent, and Citibank, N.A., London Branch, as security agent, which provides for a \$54.8 million super senior secured term loan facility.

The description of the Term Loan contained in this Form 6-K Report does not purport to be complete and is qualified in its entirety by reference to the full text of the Term Loan, which is filed herewith as Exhibit 99.3 and is incorporated herein by reference.

General

The Term Loan is in the amount of \$54.8 million. The Term Loan was fully drawn at the Issue Date of the Notes. The Company is not entitled to re-borrow any part of the Term Loan which is repaid.

Interest Rate, Fees and Maturity

Borrowings under the Term Loan bear interest at LIBOR plus a margin of 3.25% per annum, payable semi-annually in arrears or (if an interest payment period is shorter than 6 months) at the end of each interest payment period. The Company also will pay certain other customary fees.

The final maturity date of the Term Loan will be October 31, 2020.

Amortization

Borrowings under the Term Loan are amortized semi-annually at a rate of \$20.0 million for each of the first and second years and \$14.8 million in the third year. There will be additional amortization should the annual mandatory tender offer to redeem Notes not be accepted in full or in part.

Mandatory Prepayments

The Term Loan requires the Company to prepay the respective part of the outstanding loan amount, subject to certain exceptions, with the net cash proceeds of certain sales or other dispositions of Collateral or upon the occurrence of an event of loss with respect to Collateral and upon a change of control or in the event of illegality.

The Term Loan also provides for mandatory prepayment of a certain portion of the Term Loan if, on any testing date, the Company's debt service coverage ratio in respect of the preceding six months is less than 1:1 for any such measurement period up to, and including, the measurement period ending on December 31, 2019, and 0.8:1.0 thereafter for so long as the amount of principal outstanding under the Term Loan is greater than \$15.0 million. Debt service coverage is tested on the initial drawdown date and on December 31 and June 30 of each year until the balance is \$15.0 million or less. If the Company has drawn amounts under the Term Loan in excess of \$15.0 million and on any testing date the Company's debt service coverage ratio in respect of the preceding six months is less than the applicable debt service coverage ratio, the Company will be obliged to prepay the portion of the Term Loan drawn in excess of \$15.0 million.

Voluntary Prepayments

The Company is able to voluntarily prepay outstanding portions of the loan under the Term Loan at any time, subject to certain notice requirements.

Guarantees and Security

Guarantees are jointly and severally provided by the Company and the same subsidiaries guaranteeing the Notes. In addition, any subsidiaries who become additional guarantors under the Term Loan will provide a guarantee on the same basis. The Company's obligations under the Term Loan are secured by first-priority security interests (subject to certain permitted liens) over the Collateral that will rank equal with the security interest of the Notes, subject to the right of the finance parties under the Term Loan to receive the net proceeds of any foreclosure on the Collateral before the holders of the Notes.

Certain Covenants and Events of Default

The Company is required to maintain minimum cash and cash equivalents in an amount of \$20.0 million, to be tested quarterly as provided in the credit agreement governing the Term Loan.

In addition, the Term Loan contains negative covenants that, among other things and subject to certain significant exceptions, limit the Company's ability and the ability of its subsidiaries to:

- incur additional indebtedness or issue certain preferred stock;
- pay dividends on, redeem or repurchase their capital stock, provide financial support or make restricted transfers of assets to non-guarantor subsidiaries;
- create certain liens;
- transfer or sell certain assets;
- enter into certain transactions other than arm's length transactions; and
- merge, consolidate or sell all or substantially all of their properties and assets.

The credit agreement governing the Term Loan also contains certain customary representations and warranties, affirmative covenants and events of default. If an event of default occurs, the lenders under the Term Loan will be entitled to take various actions, including the acceleration of amounts due under the Term Loan and actions customarily permitted to be taken by a secured creditor. Amendments and waivers of the covenants described above or any other provisions which affect solely the Term Loan require the consent of lenders holding all or the majority of the commitments and loans under the Term Loan.

Governing Law

The Term Loan will be governed by English law.

Intercreditor Agreement

In connection with the issuance of the Notes and the execution of the Indenture and the Term Loan, the Company and the guarantors entered into an intercreditor agreement with the security agent and the other parties thereto (the "Intercreditor Agreement"), that governs, among other things, the relationships and relative priorities among the lenders under the Term Loan and the holders of Notes. The Intercreditor Agreement is filed herewith as Exhibit 99.4, and is incorporated herein by reference.

Other Information

This Report contains forward-looking statements. Forward-looking statements provide the Company's current expectations or forecasts of future events. Forward-looking statements include statements about the Company's expectations, beliefs, plans, objectives, intentions, assumptions and other statements that are not historical facts. Words or phrases such as "anticipate," "believe," "continue," "estimate," "expect," "intend," "may,"

“ongoing,” “plan,” “potential,” “predict,” “project,” “will” or similar words or phrases, or the negatives of those words or phrases, may identify forward-looking statements, but the absence of these words does not necessarily mean that a statement is not forward-looking. These forward-looking statements are based on assumptions that may be incorrect, and the Company cannot assure you that the events or expectations included in these forward-looking statements will come to pass. Actual results could differ materially from those expressed or implied by the forward-looking statements as a result of various factors, including the factors described in “Risk Factors” in the Company’s Annual Report on Form 20-F and the factors and risks the Company describes in subsequent reports filed from time to time with the U.S. Securities and Exchange Commission. Accordingly, you should not unduly rely on these forward-looking statements, which speak only as of the date of this Report. The Company undertakes no obligation to publicly revise any forward-looking statement to reflect circumstances or events after the date of this Report or to reflect the occurrence of unanticipated events.

EXHIBIT INDEX

<u>Exhibit No.</u>	<u>Exhibit</u>
99.1	Indenture, dated as of October 31, 2017, among the Company, the guarantors party thereto and Citibank, N.A., London Branch, as trustee, security agent, paying agent, registrar and transfer agent.
99.2	Form of Notes (included in Exhibit 99.1).
99.3	Facility Agreement, dated October 25, 2017, among the Company, as borrower, the guarantors party thereto, Citibank, N.A., London Branch, as arranger, bookrunner and security agent, and Citibank Europe plc, UK Branch, as facility agent.
99.4	Intercreditor Agreement, dated as of October 31, 2017, among the Company, the guarantors party thereto, Citibank, N.A., London Branch, as Notes trustee, Citibank Europe plc, UK Branch, as term agent, and the other parties from time to time party thereto.

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.

GLOBAL SHIP LEASE, INC.

Date: November 3, 2017

By: /s/ Ian J. Webber

Ian J. Webber

Chief Executive Officer

GLOBAL SHIP LEASE, INC.,

AS ISSUER,

THE GUARANTORS PARTY HERETO,

AS GUARANTORS,

CITIBANK, N.A., LONDON BRANCH

AS TRUSTEE, SECURITY AGENT, PAYING AGENT, REGISTRAR AND TRANSFER AGENT

INDENTURE

Dated as of October 31, 2017

\$360,000,000

9.875% First Priority Secured Notes due 2022

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Note: This Table of Contents shall not, for any purpose, be deemed to be part of this Indenture.

INDENTURE dated as of October 31, 2017 among Global Ship Lease, Inc., a corporation organized under the laws of the Marshall Islands, as Issuer (the “*Issuer*”), certain subsidiaries of the Issuer named herein, as Guarantors (the “*Guarantors*”), Citibank, N.A., London Branch as Trustee (the “*Trustee*”) and, as applicable, as Security Agent (the “*Security Agent*”), Paying Agent (as defined herein), and Registrar and Transfer Agent (each as defined herein).

RECITALS OF THE ISSUER AND THE GUARANTORS

The Issuer has duly authorized the execution and delivery of this Indenture to provide for the issuance of: (i) its 9.875% First Priority Secured Notes due 2022 issued on the date hereof (the “*Initial Notes*”); and (ii) any additional notes having identical terms and conditions to the Initial Notes (save for the impact of the later date of issue) (“*Additional Notes*”) that may be issued after the Issue Date (as defined herein) (the Initial Notes together with any Additional Notes, the “*Notes*”). The Issuer and the Guarantors have received good and valuable consideration for the execution and delivery of this Indenture.

All necessary acts and things have been done to make: (i) the Notes, when duly issued and executed by the Issuer and authenticated and delivered hereunder, the legal, valid and binding obligations of the Issuer; and (ii) this Indenture a legal, valid and binding agreement of the Issuer and the Guarantors in accordance with the terms of this Indenture.

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

For and in consideration of the premises and the purchase of the Notes by the Holders thereof, it is mutually covenanted and agreed by the parties hereto, for the benefit of each other and for the equal and proportionate benefit of all Holders (as defined below), as follows:

ARTICLE ONE DEFINITIONS AND INCORPORATION BY REFERENCE

SECTION 1.01. Definitions.

Set forth below are certain defined terms used in this Indenture.

“**Accounting Principles**” means GAAP and guidelines and interpretations issued by the International Accounting Standards Board (or any predecessor or successor thereof), in force from time to time; *provided* that, for purposes of this definition and the application of Accounting Principles in this Indenture, the accounting treatment of any operating leases, capital leases or finance leases shall be determined in accordance with GAAP as in force on the Issue Date. “**GAAP**” means generally accepted accounting principles in the United States of America, as set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board, or in such other statements by such other entity as have been approved by a significant segment of the accounting profession.

“**Adjusted EBITDA**” means, with respect to any specified Person or Vessel, the net income (loss) before interest income and expense including amortization of deferred financing costs, realized and unrealized gain (loss) on interest rate derivatives, earnings allocated to preferred shares, income taxes, depreciation, amortization and impairment charges of such Person on a consolidated basis or attributable to such Vessel (as applicable) for the most recently ended four-quarter period for which internal financial statements are available immediately preceding the calculation date or as otherwise specified.

“**Affiliate**” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, “*control*,” as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise. For purposes of this definition, the terms “*controlling*,” “*controlled by*” and “*under common control with*” have correlative meanings.

“**Agent**” means each of the Registrar, Transfer Agent, Paying Agents or authenticating agent.

“**Applicable Premium**” means, with respect to a Note at any time, the greater of (1) 1.0% of the principal amount of such Note at such time and (2) the excess of (A) the present value at such time of (i) the redemption price of such Note at November 15, 2019, *plus* (ii) all remaining interest payments due on such Note through and including November 15, 2019 (excluding any interest accrued to the applicable redemption date), discounted on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months) from November 15, 2019 to the applicable redemption date, computed using a discount rate equal to the Applicable Treasury Rate *plus* 0.50%, over (B) the principal amount of such Note on the applicable redemption date. For the avoidance of doubt, calculation of the Applicable Premium is not the duty of the Trustee or any Agent.

“**Applicable Treasury Rate**” for any redemption date, means the yield to maturity at the time of computation of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15(519) that has become publicly available at least two Business Days prior to the applicable redemption date of such Note (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from the applicable redemption date to November 15, 2019; *provided, however*, that if the period from the applicable redemption date to November 15, 2019 is not equal to the constant maturity of a United States Treasury security for which a weekly average yield is given, the Applicable Treasury Rate shall be obtained by linear interpolation (calculated to the nearest one-twelfth of a year) from the weekly average yields of United States Treasury securities for which such yields are given except that if the period from the applicable redemption date to November 15, 2019 is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year shall be used.

“**Approved Valuer**” means any of Clarksons, Maersk Broker, Howe Robinson, Fearnleys, Braemar ACM, Barry Rogliano Salles (BRS), Simpson Spence Young, E.A. Gibson,

Maritime Strategies International (MSI) (or any successor or affiliate of such firms through which valuations are commonly issued) or such other independent and reputable provider of valuations selected by the Issuer in good faith.

“**Asset Sale**” means:

- (1) the sale, lease, conveyance or other disposition of any assets; and
- (2) the issuance by any of the Issuer’s Subsidiaries of any Equity Interest of such Subsidiary or the sale by the Issuer or any Subsidiary of Equity Interests in any Subsidiaries.

Notwithstanding the preceding, none of the following items will be deemed to be an Asset Sale:

- (A) a sale, lease, conveyance, transfer or other disposition of assets between or among the Issuer and/ or its Subsidiaries; *provided* that if such sale, lease, conveyance, transfer or other disposition involves Collateral, such exemption shall only be available if such transaction is between or among the Issuer and/or one or more Vessel Guarantors;
- (B) an issuance, sale, transfer or other disposition of Equity Interests by a Subsidiary of the Issuer to the Issuer or to another Subsidiary of the Issuer;
- (C) the chartering on arm’s length terms, lease, assignment or sublease of any real or personal property including, but not limited, to a Vessel, in the ordinary course of a Permitted Business;
- (D) any sale or disposition deemed to occur in connection with creating, granting or perfecting a Lien not otherwise prohibited by this Indenture;
- (E) sale of assets received upon the foreclosure of a Lien;
- (F) the surrender or waiver of contract rights or settlement, release or surrender of a contract, tort or other litigation claim in the ordinary course of a Permitted Business, including the termination of a Charter in accordance with its terms;
- (G) foreclosures, condemnations or any similar actions on assets;
- (H) the disposition of receivables in connection with the compromise, settlement or collection thereof in the ordinary course of business or in bankruptcy or similar proceedings and exclusive of factoring or similar arrangements;

- (I) the issuance of preferred stock or Disqualified Stock issued in compliance with Section 4.10 hereof;
- (J) a Total Loss Event;
- (K) the sale, conveyance or other disposition of all or substantially all of the assets of the Issuer and their Subsidiaries taken as a whole (which, for the avoidance of doubt, will be governed by Section 4.09 and/or Section 5.01 hereof and not by Section 4.13 hereof;
- (L) the sale or other disposition of cash or Cash Equivalents;
- (M) the unwinding of any Hedging Obligations; and
- (N) a Permitted Transfer.

“Attributable Indebtedness” means the amount of Indebtedness in respect of the leasing to the Issuer or a Subsidiary of the Issuer of any property that results in a Capital Lease Obligation as determined in accordance with the definition of “Capital Lease Obligation.”

“Authority” means any competent regulatory, prosecuting, Tax or governmental authority in any jurisdiction.

“Bankruptcy Law” means Title 11 of the United States Code, as amended, or any applicable United States federal, state or non-U.S. law for the relief of debtors, or bankruptcy, insolvency, reorganization or other similar law.

“beneficial owner” has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act. The term “beneficial ownership” has a correlative meaning.

“Board of Directors” means:

- (1) with respect to a corporation, the board of directors of the corporation or, other than for purposes of the definition of “Change of Control,” any committee thereof duly authorized to act on behalf of such board; and
- (2) with respect to any other Person, the functional equivalent of a board of directors of a corporation or, other than for purposes of the definition of “Change of Control,” any committee thereof duly authorized to act on behalf thereof.

“Board Resolution” means, with respect to any Person, a copy of a resolution certified by the Secretary or an Assistant Secretary (or an individual with similar authority) of such Person, to have been duly adopted by the Board of Directors of such Person and to be in full force and effect on the date of such certification, and delivered to the Trustee.

“Business Day” means a day (other than a Saturday or Sunday) on which banks are open for general business in London, Rotterdam and New York and (in relation to any date for the payment or purchase of a currency other than U.S. Dollars) the principal financial center of the country of that currency.

“Capital Lease Obligation” means, at the time of determination, the amount of the liability in respect of a capital lease that would at that time be required to be capitalized on a balance sheet in accordance with Accounting Principles.

“Capital Stock” means:

- (1) in the case of a corporation, corporate stock;
- (2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) in the equity of such association or entity;
- (3) in the case of a partnership or limited liability company, partnership interests (whether general or limited) or membership interests; and
- (4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

“Cash Equivalents” means:

- (1) United States dollars, pounds sterling or Euro or other currency of a member of the Organization for Economic Cooperation and Development (including such currencies as are held as overnight bank deposits and demand deposits with banks);
- (2) securities issued or directly and fully guaranteed or insured by the government of the United States or any Member State of the European Union or any other country whose sovereign debt has a rating of at least “A3” from Moody’s and at least “A-” from S&P or any agency or instrumentality thereof having maturities of not more than one year from the date of acquisition;
- (3) demand and time deposits and eurodollar time deposits and certificates of deposit or bankers’ acceptances with maturities of one year or less from the date of acquisition, in each case, with any financial institution organized under the laws of any country that is a member of the Organization for Economic Cooperation and Development (a) whose long-term debt obligations are rated at least “A-3” or the equivalent thereof by S&P or at least “P-3” or the equivalent thereof by Moody’s (or if at the time neither is issuing comparable ratings, then a comparable rating of another Rating Agency) or (b) having capital and surplus and undivided profits in excess of \$250.0 million;

- (4) repurchase obligations with a term of not more than 60 days for underlying securities of the types described in clause (2) of this definition entered into with any financial institution meeting the qualifications specified in clause (3) of this definition;
- (5) commercial paper and variable or fixed rate notes rated "P-1" or higher by Moody's or "A-1" or higher by S&P and, in each case, maturing within one year after the date of acquisition;
- (6) money market funds that invest primarily in Cash Equivalents of the kinds described in clauses (1) through (5) of this definition; and
- (7) instruments equivalent to those referred to in clauses (1) through (6) of this definition denominated in any other foreign currency and comparable in credit quality and tenor to those referred to above and customarily to the extent reasonably required in connection with (a) any business conducted by the Issuer or any of its Subsidiaries in such jurisdiction or (b) any investment in the jurisdiction in which such investment is made.

"Change of Control" means the occurrence of any of the following events:

- (1) at any time, the Issuer becomes aware of (by way of a report or any other filing pursuant to Section 13(d) of the Exchange Act, proxy, vote, written notice or otherwise) the acquisition by any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act or any successor provision), including any group acting for the purpose of acquiring, holding or disposing of securities (within the meaning of Rule 13d-5(b)(1) under the Exchange Act, or any successor provision), other than the Permitted Holders, in a single transaction or in a related series of transactions, by way of merger, consolidation or other business combination or purchase of beneficial ownership of a majority of the total voting power of the Voting Stock of the Issuer or any direct or indirect parent company of the Issuer; *provided* that (x) so long as the Issuer is a Subsidiary of a parent company, no Person shall be deemed to be or become a beneficial owner of more than 50% of the total voting power of the Voting Stock of the Issuer unless such Person shall be or become a beneficial owner of more than 50% of the total voting power of the Voting Stock of such parent company and (y) any Voting Stock of which any Permitted Holder is the beneficial owner shall not in any case be included in calculating the Voting Stock of which any such Person first referred to above in this clause (1) is the beneficial owner;
- (2) the sale, lease or transfer, in one or a series of related transactions, of all or substantially all of the assets of the Issuer and the Subsidiaries, taken as a whole, to any Person other than a Wholly Owned Subsidiary or one or more Permitted Holders in connection with which any Person other than one or more Permitted Holders, is or

becomes the beneficial owner (within the meaning of Rule 13d-3 under the Exchange Act, or any successor provision), directly or indirectly, of a majority of the total voting power of the Voting Stock of the transferee Person in such sale or transfer of assets, as the case may be; *provided* that (x) so long as such transferee Person is a Subsidiary of a Permitted Parent, no Person shall be deemed to be or become a beneficial owner of a majority of the total voting power of the Voting Stock of such transferee Person unless such Person shall be or become a beneficial owner of a majority of the total voting power of the Voting Stock of such Permitted Parent and (y) any Voting Stock of which any Permitted Holder is the beneficial owner shall not in any case be included in the calculation of any Voting Stock of which any such Person first referred to above in this clause (2) is the beneficial owner;

(3) the Issuer shall adopt a plan of liquidation or dissolution or any such plan shall be approved by the stockholders of the Issuer; or

(4) a de-listing of the Issuer's stock from the New York Stock Exchange or another internationally recognized stock exchange (if applicable) that does not occur in connection with a listing of the Issuer's shares on another internationally recognized stock exchange, *provided* that if CMA CGM or its Affiliates or other parties acting in concert with CMA CGM or its Affiliates acquires 100% of the shares of the Issuer and, following such acquisition, the shares of the Issuer are de-listed as described in this clause (4), such de-listing shall not constitute a Change of Control, so long as the Notes are listed on a reputable stock exchange and remain so listed until they mature or are no longer outstanding.

"Charter" means each time charter, bareboat charter or voyage charter entered into with respect to a Mortgaged Vessel.

"CMA CGM" means CMA CGM S.A. and its Subsidiaries.

"CMA Ships" means CMA Ships Management, a Subsidiary of CMA CGM.

"Code" means the U.S. Internal Revenue Code of 1986, as amended.

"Collateral" means, collectively, all of the property and assets that are from time to time subject to the Security Documents.

"Collateral Account" means a segregated account or accounts established and maintained by the Issuer or any of the Vessel Guarantors in its own name for the benefit of the holders of the Notes, into which the Issuer or Vessel Guarantor, as applicable, deposits proceeds of Collateral from time to time in accordance with the provisions of this Indenture, which Collateral Account may be, for the avoidance of doubt, the same account as any Vessel Guarantor's earnings account which is charged with a first-priority Lien in favor of the holders of the Notes and the lenders under the New Term Loan Facility (for so long as it is outstanding) and the creditors with respect to any other liabilities in the future in accordance with the terms of this Indenture and the Intercreditor Agreement.

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

“**Common Equity**” means share capital of the Issuer, excluding the Existing Preferred Shares.

“**Corporate Trust Office**” means the office of the Trustee at which at any particular time its corporate trust business shall be principally administered, which office at the date of the execution of this Indenture is located at its address set forth in Section 13.02, or such other address as the Trustee may designate from time to time by notice to the Issuer, or the principal corporate trust office of any successor Trustee (or such other address as such successor Trustee may designate from time to time by notice to the Issuer).

“**Currency Exchange Protection Agreement**” means, in respect of any Person, any foreign exchange contract, currency swap agreement, currency option, cap, floor, ceiling or collar or agreement or other similar agreement or arrangement designed to protect such Person against fluctuations in currency exchange rates as to which such Person is a party.

“**Custodian**” means any receiver, trustee, assignee, liquidator or similar official under any Bankruptcy Law.

“**Debt Documents**” shall have the meaning assigned to such term in the Intercreditor Agreement.

“**Default**” means any event that is, or with the passage of time or the giving of notice or both would be, an Event of Default.

“**Depository**” means, with respect to the Global Notes, DTC, its nominees and any and all successors thereto appointed as depository hereunder and having become such pursuant to the applicable provisions of this Indenture.

“**Disqualified Stock**” means any Capital Stock that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder of the Capital Stock, in whole or in part, on or prior to the maturity date of the Notes. Notwithstanding the preceding sentence, any Capital Stock that would constitute Disqualified Stock solely because the holders of the Capital Stock have the right to require the issuer thereof to repurchase or redeem such Capital Stock upon the occurrence of a change of control or an asset sale or the destruction (including a total loss) of an asset prior to the stated maturity of the Notes will not constitute Disqualified Stock. The amount of Disqualified Stock deemed to be outstanding at any time for purposes of this Indenture will be the maximum amount that the Issuer and its Subsidiaries may become obligated to pay upon the maturity of, or pursuant to any mandatory redemption provisions of, such Disqualified Stock.

“**DTC**” means The Depository Trust Company or any successor thereto.

“DTC Custodian” means Citibank, N.A., London Branch as custodian for the Depository or any successor thereto.

“Eligible Jurisdiction” means any of Hong Kong, the Marshall Islands, Panama, the Bahamas, the United Kingdom, France, Germany, Netherlands, Denmark, Norway, Sweden, Greece, the Republic of Cyprus (excluding the Turkish Republic of Northern Cyprus), Ireland, Belgium, the Channel Islands, Malta, Gibraltar, Liberia, Singapore, Isle of Man, Bermuda, British Virgin Islands, Cayman Islands, the United States of America, any State of the United States or the District of Columbia and any other jurisdiction generally acceptable to institutional lenders in the shipping industry, as determined in good faith by the Issuer.

“Equity Interests” means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

“Excess Loss Proceeds” means Total Loss Event Proceeds that are not applied or invested as provided in Section 4.21(a), *provided* that in the case of a Material Total Loss Event, and no more than one such Material Total Loss Event, such Excess Loss Proceeds may be reduced, at the Issuer’s option, by an amount not exceeding 50% of the charter-adjusted Fair Market Value *less* the charter-free Fair Market Value (to the extent positive) of the applicable Lost Mortgaged Vessel.

“Exchange” means The International Stock Exchange Authority Limited (formerly The Channel Islands Securities Exchange Authority Limited) or any successor thereto.

“Exchange Act” means the U.S. Securities Exchange Act of 1934, as amended, or any successor statute or statutes thereto and, in each case, the rules and regulations promulgated by the Commission thereunder.

“Exercised Vessel Purchase Option Contract” means any Vessel Purchase Option Contract which has been exercised by the Issuer or a Subsidiary, obligating the Issuer or such Subsidiary to purchase such Vessel and any Related Assets, subject only to customary conditions precedent.

“Existing Indebtedness” means all outstanding Indebtedness of the Issuer and its Subsidiaries under the Existing Notes, the Existing Revolving Credit Facility and the Existing Term Loan Facility.

“Existing Mortgaged Vessels” means the following Vessels owned by a Guarantor on the Issue Date: *CMA CGM Matisse, CMA CGM Utrillo, Delmas Keta, Julie Delmas, Kumasi, Marie Delmas, CMA CGM La Tour, CMA CGM Manet, CMA CGM Alcazar, CMA CGM Château d’If, CMA CGM Thalassa, CMA CGM Jamaica, CMA CGM Sambhar, CMA CGM America, CMA CGM Berlioz, OOCL Qingdao, OOCL Ningbo and OOCL Tianjin.*

“Existing Notes” means the Issuer’s 10.000% First Priority Secured Notes due 2019, issued on March 19, 2014.

“Existing Preferred Shares” means the Issuer’s 8.75% Series B Cumulative Redeemable Perpetual Preferred Shares, as may be amended, modified, supplemented, replaced, extended or renewed from time to time in compliance with the provisions of this Indenture, *provided* that no such amendment, modification, supplement, replacement, extension or renewal may be materially disadvantageous to the interests of the holders of the Notes.

“Existing Revolving Credit Facility” means the revolving credit facility established pursuant to the super senior revolving facility agreement dated March 19, 2014 among, *inter alios*, the Issuer, the Guarantors, the senior lenders (as named therein) and Citibank International plc, as agent, as amended, restated, modified, renewed, refunded, replaced, restructured, refinanced, repaid, increased or extended in whole or in part from time to time.

“Existing Term Loan Facility” means the term loan facility established pursuant to the term loan facility agreement dated July 29, 2015 among, *inter alios*, the Issuer, Global Ship Lease 20 Limited and DVB Bank SE, as amended, restated, modified, renewed, refunded, replaced, restructured, refinanced, repaid, increased or extended in whole or in part from time to time.

“Fair Market Value” means, with respect to any asset or property, the value that would be paid in cash by a willing buyer to an unaffiliated willing seller on the basis of a sale for prompt delivery in an arm’s length transaction not involving distress or necessity of either party, as determined in good faith by the Issuer, *provided* that in respect of a Vessel, such Fair Market Value shall be determined, in U.S. dollars, as the arithmetic mean of independent valuations of such Vessel on an “as is where is” basis, including any charters or other contracts for employment, obtained by the Issuer from two Approved Valuers.

“FATCA Withholding” means any withholding or deduction required pursuant to an agreement described in section 1471(b) of the Code, or otherwise imposed pursuant to sections 1471 through 1474 of the Code, any regulations or agreements thereunder, any official interpretations thereof, or any law implementing an intergovernmental approach thereto.

“Financial Support” means the provision of any loans or guarantees or similar financial support (including third-party security), or the voluntary assumption of any financial liability (whether actual or contingent) by the Issuer or any of its Subsidiaries to, or for the benefit of, any Person (other than the Issuer or any of its Subsidiaries).

“Government Securities” means direct obligations of, or obligations guaranteed by, the United States of America, and the payment for which the United States pledges its full faith and credit.

“guarantee” means as to any Person, a guarantee (other than by endorsement of negotiable instruments for collection in the ordinary course of a Permitted Business), direct or indirect, in any manner (including through letters of credit and reimbursement agreements in respect thereof), of all or any part of any Indebtedness of another Person.

“Guarantee” means the guarantee by each Guarantor of the Issuer’s obligations under this Indenture and on the Notes, executed pursuant to the provisions of this Indenture.

“Guarantor” means each Subsidiary of the Issuer that executes a Guarantee in accordance with the provisions of this Indenture and its successors and assigns, until such Subsidiary is released from its Guarantee in accordance with the provisions of this Indenture.

“Hedging Obligations” means, with respect to any Person, the obligations of such Person under swap, cap, collar, forward purchase, any forward freight agreement or comparable swap, future or similar agreement or arrangement relating to derivative trading in freight or similar rates, or agreements or arrangements similar to any of the foregoing and dealing with interest rates, currency exchange rates, commodity prices or freight rates, either generally or under specific contingencies.

“Holder” means a Person in whose name a Note is registered on the books maintained by the Registrar.

“Indebtedness” of any Person at any date means, without duplication, any indebtedness for or in respect of:

- (1) moneys borrowed and debt balances at banks or other financial institutions or other lenders;
- (2) any amount raised by acceptance under any acceptance credit facility or dematerialized equivalent;
- (3) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument, including the Notes;
- (4) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with the Accounting Principles, be treated as a finance or capital lease (meaning that the lease is capitalized as an asset and booked as a corresponding liability in the balance sheet);
- (5) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis, *provided* that the requirements for de-recognition under the Accounting Principles as in effect on the Issue Date are met);
- (6) any derivative transaction entered into and, when calculating the value of any derivative transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that derivative transaction, that amount shall be taken into account);
- (7) any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution in respect of an underlying liability of a person which is not the Issuer or any of its Subsidiaries which liability would fall within one of the other clauses of this definition;

- (8) Disqualified Stock;
- (9) all obligations of such Person representing the balance of the deferred and unpaid purchase price of any property due more than six months after such property is acquired and which is treated as indebtedness under the Accounting Principles, except any such balance that constitutes an accrued expense or trade payable, or similar obligations to trade creditors incurred in the ordinary course of a Permitted Business;
- (10) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing or otherwise being classified as a borrowing under the Accounting Principles as in effect on the Issue Date;
- (11) Attributable Indebtedness;
- (12) liquidation preference of preferred stock issued by a Subsidiary to any Person other than the Issuer or another Subsidiary;
- (13) all Indebtedness of others secured by a Lien on any asset of such Person, whether or not such Indebtedness is assumed by such Person; and
- (14) without double counting, the amount of any liability in respect of any guarantee for any of the items referred to in clauses (1) to (13) above.

Notwithstanding the foregoing, and for the avoidance of doubt, Indebtedness shall be deemed not to include any operating leases as such an instrument would be determined in accordance with the Accounting Principles.

Notwithstanding clause (9) above, the obligation of the Issuer or any Subsidiary to pay the purchase price for an Exercised Vessel Purchase Option Contract entered into and exercised in the ordinary course of a Permitted Business and consistent with past practices of the Issuer and its Subsidiaries shall not constitute "Indebtedness" under clause (9) above even though the purchase price therefor may be due more than six months after exercise thereof.

"Indenture" means this Indenture, as amended, supplemented or otherwise modified from time to time in accordance with the terms hereof.

"Intercreditor Agreement" means the Intercreditor Agreement dated on or about the Issue Date, by and among, *inter alios*, the Issuer, the Security Agent, the Trustee and the agent under the New Term Loan Facility, as amended, restated, modified, renewed, replaced, restructured or extended in whole or in part from time to time.

“interest” means, with respect to the Notes, interest on the Notes (regardless of whether so stated).

“Interest Payment Date” means each May 15 and November 15, starting with May 15, 2018.

“Issue Date” means October 31, 2017 the date of the original issuance of the Notes under this Indenture.

“Issuer” means Global Ship Lease, Inc., a Marshall Islands corporation, or its successors and assigns.

“Lien” means any encumbrance, mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect; *provided* that in no event shall an operating lease that is not a Capital Lease Obligation be deemed to constitute a Lien.

“Material Total Loss Event” means a Total Loss Event involving (a) any of CMA CGM Thalassa, CMA CGM Berlioz, CMA CGM Alcazar, CMA CGM Chateau d’If, CMA CGM America, CMA CGM Jamaica, CMA CGM Sambhar or (b) any Vessel substituted for any of the foregoing as part of the Collateral which has an equivalent or greater Fair Market Value in accordance with the provisions of this Indenture.

“Maturity Date” when used with respect to any Note, means the date on which the principal amount of such Notes becomes due and payable as therein or herein provided.

“Moody’s” means Moody’s Investors Service, Inc. and any successor to its rating agency business.

“Mortgaged Vessels” means (i) the Existing Mortgaged Vessels, and (ii) any other Vessels made subject to the Lien of the Security Documents in favor of the Security Agent, for the benefit of the Secured Parties under the Intercreditor Agreement, pursuant to Section 11.09.

“Net Proceeds” means the aggregate cash and Cash Equivalents proceeds received by the Issuer or any of its Subsidiaries in respect of any Asset Sale (including, without limitation, any cash received upon the sale or other disposition of any non-cash consideration received in any Asset Sale), net of fees, commissions, expenses and other direct costs relating to such Asset Sale, including, without limitation, (a) fees and expenses related to such Asset Sale (including legal, accounting and investment banking fees, title and recording Tax fees and sales and brokerage commissions, and any relocation expenses and severance or shutdown costs incurred as a result of such Asset Sale), (b) all federal, state, provincial, foreign and local Taxes paid or payable as a result of the Asset Sale, (c) amounts required to be paid to any Person (other than the Issuer or any of its Subsidiaries) owning a beneficial interest in the assets which are subject to such Asset Sale and (d) any escrow or reserve for adjustment in respect of the sale price of such assets established in accordance with the Accounting Principles and any reserve in

accordance with the Accounting Principles against any liabilities associated with such Asset Sale and retained by the seller after such Asset Sale, including pension and other post-employment benefit liabilities, liabilities related to environmental matters and liabilities under any indemnification obligations associated with such Asset Sale except to the extent that such proceeds are released from any such escrow or to the extent such reserve is reduced or eliminated.

“New Term Loan Facility” means the term loan facility established pursuant to the term loan facility agreement dated on or about the Issue Date among, inter alios, the Issuer, the Guarantors, the lender(s) named therein and Citibank Europe plc, UK Branch, as facility agent, as amended, restated, modified, renewed, refunded, replaced, restructured, refinanced, repaid, increased or extended in whole or in part from time to time.

“Non-U.S. Person” has the meaning assigned to such term in Regulation S.

“Notes” means, collectively, the Issuer’s 9.875% First Priority Secured Notes due 2022 issued in accordance with Section 2.02 hereof (whether issued on the Issue Date, issued as Additional Notes or otherwise issued after the Issue Date) treated as a single class of securities under this Indenture, as amended and supplemented from time to time in accordance with the terms of this Indenture.

“Notes Documents” means this Indenture, the Notes issued on the Issue Date, the Guarantees issued on the Issue Date, the Security Documents and any other document (whether creating a security or not) which is executed at any time by the Issuer or any other Person in relation to any amount payable under this Indenture.

“Offering Memorandum” means the offering memorandum of the Issuer dated October 23, 2017 relating to the Notes.

“Officer” means, with respect to any Person, any of the following: the Chairman of the Board of Directors, the Chief Executive Officer, the Chief Financial Officer, the President, the Chief Operating Officer, the Chief Technical Officer, any Vice President, any Assistant Vice President, the Treasurer, any Assistant Treasurer, the Secretary, any Assistant Secretary, the Controller or any other officer designated by the relevant Board of Directors serving in a similar capacity.

“Officer’s Certificate” means a certificate signed on behalf of the Issuer by any one Officer of the Issuer, who must be the principal executive officer, the principal financial officer, the treasurer, the controller, the general counsel or the principal accounting officer of the Issuer.

“Opinion of Counsel” means a written opinion from legal counsel that meets the requirements of this Indenture. The counsel may be an employee of, or counsel to, the Issuer or a Guarantor. Opinions of Counsel required to be delivered under this Indenture may have qualifications customary for opinions of the type required in the relevant jurisdiction or related to the items covered by the opinion and counsel delivering such Opinions of Counsel may rely on certificates of the Issuer or government or other officials customary for opinions of the type required, including certificates certifying as to matters of fact.

“Permitted Business” means any business engaged in by the Issuer, any Subsidiary of the Issuer, or any direct or indirect parent of the Issuer on the Issue Date and any business or other activities that are reasonably related, ancillary, supplemental or complementary thereto, or a reasonable extension, development or expansion of, the businesses in which the Issuer and the Subsidiaries are engaged on the Issue Date.

“Permitted Financial Support” means any Financial Support:

- (1) provided in relation to the Notes Documents and the New Term Loan Facility;
- (2) provided in relation to the Existing Indebtedness and existing on the Issue Date, *provided* that the Existing Indebtedness and such Financial Support shall be discharged substantially concurrently with the issue of the Notes;
- (3) provided by (a) the Issuer or any of its Subsidiaries that are not Vessel Guarantors in relation to any Indebtedness permitted to be incurred under clauses (3), (4), (5), (6), (8), (9), (10) and (17) of Section 4.10(b) and (b) Vessel Guarantors in relation to any Indebtedness permitted to be incurred under clause (10) of Section 4.10(b);
- (4) provided by the Issuer or any of its Subsidiaries in the ordinary course of business, including, but not limited to, deposits, performance bonds, security, company guarantees or performance guarantees given to shipyards or pursuant to bareboat charters, time charters, voyage charters or contracts of affreightment, or in connection with lease-in contracts and related arrangements; *provided* that with respect to Vessel Guarantors, any liability pursuant to this clause (4) shall only be in respect of the relevant Vessel of such Vessel Guarantor;
- (5) any other Financial Support not to exceed in the aggregate \$5.0 million (or its equivalent in other currencies) at any time; or
- (6) in the form of loans between or among any of the Issuer and its Subsidiaries and the payments in respect of such loans.

“Permitted Flag Jurisdiction” means any of Hong Kong, the Marshall Islands, Panama, the Bahamas, the United Kingdom, France, Germany, Netherlands, Denmark, Norway, Sweden, Greece, the Republic of Cyprus (excluding the Turkish Republic of Northern Cyprus), Ireland, Belgium, the Channel Islands, Malta, Gibraltar, Liberia, Singapore, Isle of Man, Bermuda, British Virgin Islands, Cayman Islands and any other jurisdiction generally acceptable to institutional lenders in the shipping industry, as determined in good faith by the Issuer.

“Permitted Holders” means each of: (a) CMA CGM or any Subsidiary of CMA CGM for so long as it remains a Subsidiary of CMA CGM and (b) (i) Michael S. Gross; (ii) each

of his spouse, siblings, ancestors, descendants (whether by blood, marriage or adoption, and including stepchildren) and the spouses, siblings, ancestors and descendants thereof (whether by blood, marriage or adoption, and including stepchildren) of such natural persons, the beneficiaries, estates and legal representatives of any of the foregoing, the trustee of any *bona fide* trust of which any of the foregoing, individually or in the aggregate, are the majority in interest beneficiaries or grantors, and any corporation, partnership, limited liability Issuer or other Person in which any of the foregoing, individually or in the aggregate, own or control a majority in interest; and (iii) all Affiliates controlled by the Persons named in clauses (i) and (ii) above.

“Permitted Liens” means:

- (1) any Liens created under the Notes Documents;
- (2) any Liens created under the Existing Indebtedness, *provided* the Existing Indebtedness will be refinanced using the proceeds of the offering of the Notes and such Liens will be released concurrently therewith;
- (3) any Liens created under the New Term Loan Facility, securing an aggregate principal amount of \$54.8 million, together with interest, fees and any other amounts (other than principal) which may be outstanding from time to time in accordance with the terms of the New Term Loan Facility, *provided* that such Liens may have super senior priority status in respect of the Collateral;
- (4) any Liens granted by the Issuer or any Subsidiary (other than any Guarantors) over its assets or revenues to secure Indebtedness incurred under clauses (3), (4), (5) or (6) of Permitted Debt, except any Liens on assets that constitute Collateral or (in respect of the Issuer and GSLS Limited) any bank accounts;
- (5) any Liens granted by the Issuer over (i) shares of any vessel-owning Subsidiary (other than any Guarantor) and (ii) claims the Issuer has against any Subsidiary (other than any Guarantor), in each case to secure Indebtedness incurred under clauses (3), (4), (5) or (6) of Permitted Debt;
- (6) any Liens arising by operation of law or in the ordinary course of operations of any Vessel;
- (7) any other Liens (other than over any Collateral) securing obligations, which obligations do not exceed \$5.0 million (or its equivalent in other currencies);
- (8) Liens in favor of the Issuer or any of its Subsidiaries (other than Liens on any assets or property constituting Collateral);
- (9) Liens on property of a Person existing at the time such Person is merged with or into or consolidated or amalgamated with the Issuer or any Subsidiary of the Issuer *provided* that such Liens were not created in connection with such merger,

consolidation or amalgamation and do not extend to any assets other than those of the Person merged into or consolidated or amalgamated with the Issuer or the Subsidiary and *provided, further*, that no such Liens shall extend to any assets or property constituting Collateral;

(10) (x) Liens imposed by law, such as carriers', warehousemen's, landlord's, suppliers' and mechanics' Liens, in each case, incurred in the ordinary course of a Permitted Business, (y) other Liens arising by operation of law covered by insurance (including any deductibles thereon) and (z) Liens incurred or deposits in connection with workers' compensation, employment insurance or other types of social security, including Liens securing letters of credit issued in the ordinary course of a Permitted Business or to secure the performance of tenders, statutory obligations, surety and appeal bonds, bids, leases, government contracts, performance and return of money bonds and other similar obligations including those arising from regulatory, contractual or warranty requirements of the Issuer and its Subsidiaries, including rights of offset and set off (in each case exclusive of obligations for the payment of borrowed money);

(11) Liens to secure any Permitted Refinancing Indebtedness permitted to be incurred under this Indenture; *provided, however*, that such Liens (a) are not materially more favorable to the lienholders with respect to such Liens than the Liens in respect of the Indebtedness being refinanced, and (b) do not extend to or cover any property or assets of the Issuer or any of its Subsidiaries not securing the Indebtedness so refinanced (other than (x) any improvements or accessions to such property or assets or any items which constitute Related Assets with respect to such underlying property or assets securing the Indebtedness so refinanced or (y) any Lien on additional property or assets which Lien would have been permitted to be granted by Section 4.12 in respect of the Indebtedness being refunded, refinanced, replaced, defeased or discharged by such Permitted Refinancing Indebtedness at the time such prior Indebtedness was initially incurred by the Issuer or such Subsidiary);

(12) Liens arising by reason of any judgment, decree or order of any court or other competent authority not giving rise to an Event of Default or Liens granted or incurred by the Issuer or any Subsidiary in connection with the release from arrest, detention, attachment or levy of any of its assets by any court or competent authority (including any governmental or regulatory agency);

(13) Liens and rights of setoff in favor of a bank imposed by law and incurred in the ordinary course of a Permitted Business on deposit accounts and Liens and rights of set-off in favor of a bank created pursuant to the second and third paragraphs of the acknowledgements to the notices of pledge under each of the first priority deeds of pledge over each Vessel Guarantor's earnings accounts, in each case maintained with such bank and cash and Cash Equivalents in such accounts;

(14) Liens on any portion of the proceeds from an issuance of additional Notes (together with other funds available to the Issuer, if applicable) deposited with the Security Agent, for the benefit of the Trustee and the Holders, to secure such additional Notes;

- (15) leases, licenses, subleases and sublicenses of assets in the ordinary course of business;
- (16) Liens on cash or Cash Equivalents arising in connection with defeasance, discharge or redemption of Indebtedness;
- (17) Liens on property (including Capital Stock) existing at the time of acquisition of the property by the Issuer or any Subsidiary of the Issuer; *provided* that such Liens were not incurred in connection with such acquisition; *provided, further*; that no such Liens shall extend to any assets or property constituting Collateral;
- (18) Liens arising from Uniform Commercial Code financing statements, filings or other applicable similar filings regarding operating leases and vessel charters entered into by the Issuer and its Subsidiaries in the ordinary course of a Permitted Business;
- (19) Liens incurred in the ordinary course of a Permitted Business of the Issuer or any Subsidiary not securing Indebtedness and arising by operation of law or contract from Vessel chartering, drydocking, maintenance, repair, refurbishment or replacement, the furnishing of supplies and bunkers to Vessels and Related Assets, repairs and improvements to Vessels and Related Assets, masters', officers' or crews' wages and maritime Liens and any other Liens (other than Liens in respect of Indebtedness) incurred in the ordinary course of operations of a Vessel; *provided* that in the case of a Chartered Vessel, such Lien is subject to the Lien of the Security Documents;
- (20) Liens for general average and salvage;
- (21) Liens for Taxes, assessments or governmental charges or claims that are not yet due or that are being contested in good faith by appropriate proceedings promptly instituted and diligently concluded; *provided* that any reserve or other appropriate provisions as is required in conformity with the Accounting Principles has been made therefor;
- (22) Liens on insurance policies and proceeds thereof, or other deposits, to secure insurance premium financings;
- (23) Liens incurred in connection with a cash management program established in the ordinary course of business; and
- (24) any extension, renewal or replacement, in whole or in part, of any Lien described in the foregoing clauses (1) through (23); *provided* that any such extension, renewal or replacement is no more restrictive in any material respect than the Lien so extended, renewed or replaced and does not extend to any additional property or assets.

For purposes of determining what category of Permitted Lien that any Lien shall be included in, the Issuer in its sole discretion may classify such Lien on the date of its incurrence and later reclassify all or a portion of such Lien in any manner that complies with this definition (including in part in one category and in part in another category).

“Permitted Manager” means each of CMA Ships, Anglo-Eastern Ship Management Ltd, Wallem Group Limited, V-Ships, Wilhelmsen Ship Management, MSC Shipmanagement Limited, Columbia Shipmanagement (Deutschland) GmbH, Bernard Schulte Shipmanagement (BSM), E.R. Schiffahrt GmbH & Cie. KG (or any successor or affiliate of such firms) and such other reputable and recognized managers of similar quality and standing selected by the Issuer in good faith.

“Permitted Parent” means any direct or indirect parent of the Issuer formed not in connection with, or in contemplation of, a transaction that, assuming such parent was not formed, after giving effect thereto would constitute a Change of Control.

“Permitted Refinancing Indebtedness” means any Indebtedness or Disqualified Stock of the Issuer or any Indebtedness, Disqualified Stock or preferred stock of any of its Subsidiaries issued in exchange for, or the net proceeds of which are used to refund, refinance, replace, defease or discharge, other Indebtedness or Disqualified Stock of the Issuer or any Indebtedness, Disqualified Stock or preferred stock of any of its Subsidiaries; *provided* that, in the case of Indebtedness which is not being used to concurrently refinance or defease the Notes in full:

- (1) the principal amount (or accreted value, if applicable) or mandatory redemption amount of such Permitted Refinancing Indebtedness does not exceed the principal amount (or accreted value, if applicable) or mandatory redemption amount, *plus* accrued interest or dividends in connection therewith, of the Indebtedness, Disqualified Stock or preferred stock extended, refinanced, renewed, replaced, defeased or refunded (*plus* all dividends and accrued interest on such Indebtedness, Disqualified Stock or preferred stock and the amount of all fees, expenses, premiums and other amounts incurred in connection therewith);
- (2) such Permitted Refinancing Indebtedness has a final maturity or final redemption date either (i) no earlier than the final maturity or final redemption date of the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded or (ii) after the Maturity Date;
- (3) the portion, if any, of the Indebtedness, Disqualified Stock or preferred stock being extended, refinanced, renewed, replaced, defeased or refunded has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of, the Indebtedness, Disqualified Stock or preferred stock being extended, refinanced, renewed, replaced, defeased or refunded;
- (4) if (i) the Indebtedness, Disqualified Stock or preferred stock being extended, refinanced, renewed, replaced, defeased or refunded is subordinated in right of

payment to the Notes or a Guarantee, such Permitted Refinancing Indebtedness is subordinated in right of payment to the Notes or a Guarantee on terms at least as favorable to the Holders as those contained in the documentation governing the Indebtedness, Disqualified Stock or preferred stock being extended, refinanced, renewed, replaced, defeased or refunded; and (ii) if the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded is unsecured or secured by the Collateral on a basis entirely junior to that of the Notes, such Permitted Refinancing Indebtedness is unsecured or secured by the Collateral on a basis entirely junior to that of the Notes; and

(5) such Indebtedness is incurred either by (i) if a Subsidiary that is not a Guarantor is the obligor on the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded, any Subsidiary that is not a Guarantor or (ii) the Issuer or Guarantor (or any Subsidiary that becomes a Guarantor in contemplation of or upon the incurrence of such Permitted Refinancing Indebtedness).

For all purposes of this Indenture, Indebtedness, Disqualified Stock or preferred stock of the Issuer or any of its Subsidiaries (collectively, the “*Replacement Indebtedness*”) may in the Issuer’s discretion be deemed to replace other Indebtedness, Disqualified Stock or preferred stock of the Issuer or any of its Subsidiaries (collectively, the “*Replaced Indebtedness*”) if such Replacement Indebtedness satisfies the requirements of clauses (1) through (5) above and is (x) incurred no later than 180 days of the date on which the Replaced Indebtedness was repaid, redeemed, defeased or discharged and (y) if the proceeds of the Replaced Indebtedness were primarily utilized to finance or refinance the acquisition of one or more Vessels, then substantially all of the net proceeds from such Replacement Indebtedness must be used to finance or refinance the acquisition of assets used or useful in a Permitted Business (including, without limitation, Vessels and Related Assets, which need not be the same Vessels or Related Assets which were financed or refinanced with the Replaced Indebtedness).

“*Permitted Transfer*” means:

(1) payments on or with respect to any Permitted Financial Support; and

(2) transfers of assets (including cash or Cash Equivalents) in an aggregate amount, or having an aggregate Fair Market Value, when taken together with all other assets made pursuant to this clause (2) that are at the time outstanding, not to exceed:

(A) the greater of \$30.0 million and 27% of Adjusted EBITDA of the Issuer, *plus*

(B) (i) 100% of the aggregate net cash proceeds and (ii) 100% of the Fair Market Value of the property and assets other than cash, in each case, received by the Issuer after the Issue Date (other than from a Subsidiary of the Issuer) as a contribution to its equity capital or from the issue or sale (other than to a Subsidiary of the Issuer) of Qualified Equity Interests, including upon the exercise of options or warrants, or from the issue or sale (other than to a Subsidiary of the Issuer) of Indebtedness of the Issuer that has been converted

into or exchanged for Qualified Equity Interests, together with the aggregate cash and Cash Equivalents received by the Issuer or any of its Subsidiaries at the time of such conversion or exchange, excluding, in the case of each of (i) and (ii), any Equity Cure Amounts and the amount of any such net cash proceeds or property or assets used to make Permitted Payments pursuant to clause (3) of Section 4.11(b); *provided* that no Collateral may be transferred pursuant to this clause (2) unless such transfer is made in connection with a substitution of Collateral in accordance with Section 11.09.

“**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.

“**principal**” means, with respect to the Notes, the principal of and premium, if any, on the Notes.

“**Private Placement Legend**” means the legends in the form set forth in Exhibit B to be placed on the Notes except where otherwise permitted by the provisions of this Indenture.

“**Qualified Equity Interests**” means Equity Interests of the Issuer other than Disqualified Stock.

“**Qualified Institutional Buyer**” or “**QIB**” has the meaning specified in Rule 144A under the Securities Act.

“**Quarter Date**” means March 31, June 30, September 30 and December 31 of each year.

“**Rating Agencies**” means Moody’s and S&P, or if Moody’s or S&P or both shall not make a rating on the Notes publicly available, a nationally recognized statistical rating agency or agencies, as the case may be, selected by the Issuer which shall be substituted for Moody’s or S&P or both, as the case may be.

“**Record Date**” means the applicable Record Date specified in the Notes; *provided* that if any such date is not a Business Day, the Record Date shall be the first day immediately succeeding such specified day that is a Business Day.

“**Redemption Date**” means, when used with respect to any Note to be redeemed, the date fixed for such redemption pursuant to this Indenture and the Notes.

“**Redemption Price**” means, when used with respect to any Note to be redeemed on a Redemption Date, the price fixed for such redemption pursuant to and in accordance with this Indenture, exclusive of accrued and unpaid interest, if any, thereon to the Redemption Date, unless otherwise specifically provided herein.

“**Regulation S**” means Regulation S under the Securities Act.

“**Regulation S-X**” means Regulation S-X under the Securities Act.

“**Related Asset**” means (i) any insurance policies and contracts from time to time in force with respect to a Vessel, (ii) the Capital Stock of any Subsidiary of the Issuer owning a Vessel and related assets, (iii) any money or other compensation payable in respect of any requisition or other compulsory acquisition of a Vessel, (iv) any earnings derived from the use or operation of a Vessel and/or any earnings account with respect to such earnings, (v) any charters, operating leases, contracts of affreightment, Vessel purchase options and related agreements entered and any security or guarantee in respect of the charterer’s or lessee’s obligations under such charter, lease, Vessel purchase option or agreement, (vi) any cash collateral account established with respect to a Vessel pursuant to the financing arrangement with respect thereto, (vii) any building, conversion or repair contracts relating to a Vessel and any security or guarantee in respect of the builder’s obligations under such contract and (viii) any security interest in, or agreement or assignment relating to, any of the foregoing or any mortgage in respect of a Vessel and any asset reasonably related, ancillary or complementary thereto.

“**Responsible Officer**” means, when used with respect to the Trustee, any officer in the Corporate Trust Office of the Trustee, including any vice president, assistant vice president, trust officer, assistant trust officer or any other officer of the Trustee who currently performs functions similar to those performed by the persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such officer’s knowledge of and familiarity with the particular subject and shall also mean any officer who shall have direct responsibility for the administration of this Indenture.

“**Restricted Security**” means a Note that constitutes a “Restricted Security” within the meaning of Rule 144(a)(3) under the Securities Act; *provided, however*, that the Trustee shall be entitled to request and conclusively rely on an Opinion of Counsel with respect to whether any Note constitutes a Restricted Security.

“**Restricted Transfer**” means any transfer of assets (including cash or Cash Equivalents) between or among (i) any of the Issuer and the Guarantors and (ii) any Subsidiaries that are not Guarantors, in each case other than a Permitted Transfer.

“**Rule 144A**” means Rule 144A under the Securities Act.

“**S&P**” means Standard & Poor’s Ratings Services and any successor to its rating agency business.

“**Secured Parties**” shall have the meaning assigned to such term in the Intercreditor Agreement.

“**Securities Act**” means the U.S. Securities Act of 1933, as amended, or any successor statute or statutes thereto and, in each case, the rules and regulations promulgated by the SEC thereunder.

“**Security Agent**” means Citibank, N.A., London Branch and its successors, as Security Agent for the Secured Parties.

“**Security Documents**” means all documents, agreements, supplements or other records creating or evidencing the security interests over the Collateral securing the Notes and the Guarantees, including as of the Issue Date the security agreements listed in Schedule [A].

“**Security Interests**” means the Lien on the Collateral created by the Security Documents and this Indenture in favor of the Security Agent on behalf of the Secured Parties.

“**Significant Subsidiary**” means any Subsidiary that would be a “significant subsidiary” as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act, as such Regulation is in effect on the Issue Date.

“**Stated Maturity**” means, with respect to any installment of principal on any series of Indebtedness, the date on which the payment of principal was scheduled to be paid in the documentation governing such Indebtedness as of the Issue Date (or, if incurred after the Issue Date, as of the date of the initial incurrence thereof) and will not include any contingent obligations to repay, redeem or repurchase any such principal prior to the date originally scheduled for the payment thereof.

“**Subordinated Indebtedness**” means Indebtedness that is (x) contractually subordinated in right of payment to the Notes or the Guarantees of such Guarantor, as the case may be, or (y) any Indebtedness that is unsecured or secured by a Lien on the Collateral on a basis entirely junior to that of the Notes.

“**Subsidiary**” means, with respect to any specified Person:

(1) any corporation, association or other business entity of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees of the corporation, association or other business entity is at the time owned or controlled, directly or indirectly, by that Person or one or more Subsidiaries of such Person (or a combination thereof); and

(2) any other Person of which at least a majority of the voting interest (without regard to the occurrence of any contingency) is at the time directly or indirectly owned by such Person or one or more Subsidiaries of such Person (or a combination thereof).

“**Tax**” means any tax, duty, levy, impost, assessment or other governmental charge (including penalties interest and any other liabilities related thereto).

“**Taxing Authority**” means any government or political subdivision or territory or possession of any government or any authority or agency therein or thereof having power to tax.

“**Total Debt**” means, with respect to any Person, the total amount of Indebtedness of such Person on a consolidated basis as of the end of the most recently ended fiscal quarter for which internal financial statements are available immediately preceding the calculation date.

“**Total Loss Event**” means an actual or constructive total loss of a Mortgaged Vessel.

“**Total Loss Event Proceeds**” means all compensation, damages and other payments (including insurance proceeds) received by the Issuer, any Vessel Guarantor, the Trustee or the Security Agent, jointly or severally, from any Person, including any governmental authority, with respect to or in connection with a Total Loss Event, net of fees, expenses and other direct costs relating to such Total Loss Event, including, without limitation, (a) fees and expenses related to such Total Loss Event (including legal, accounting and investment banking fees, title and recording Tax fees and brokerage commissions, and any severance or shutdown costs incurred as a result of such Total Loss Event), (b) all federal, state, provincial, foreign and local Taxes paid or payable as a result of the Total Loss Event and (c) any reserve in accordance with the Accounting Principles against any liabilities associated with such Total Loss Event and retained by the Issuer and such Vessel Guarantor after such Total Loss Event, including pension and other post-employment benefit liabilities, liabilities related to environmental matters and liabilities under any indemnification obligations associated with such Total Loss Event except to the extent such reserve is reduced or eliminated.

“**Trustee**” means the party named as such in the preamble to this Indenture until a successor replaces it in accordance with the provisions of this Indenture and thereafter means such successor.

“**U.S. Dollar Equivalent**” means, with respect to any monetary amount in a currency other than U.S. dollars, at any time for the determination thereof, the amount of U.S. dollars obtained by converting such foreign currency involved in such computation into U.S. dollars at the spot rate for the purchase of U.S. dollars with the applicable foreign currency as quoted by Reuters at approximately 10:00 A.M. (New York time) on the date not more than two Business Days prior to such determination.

“**U.S. Legal Tender**” means such coin or currency of the United States of America that at the time of payment shall be legal tender for the payment of public and private debts.

“**Vessel**” means one or more shipping vessels whose primary purpose is the maritime transportation of cargo or which are otherwise engaged, used or useful in any business activities of the Issuer and its Subsidiaries, in each case together with all related spares, equipment and any additions or improvements.

“**Vessel Guarantor**” means a Guarantor that is the owner of one or more Mortgaged Vessels.

“**Vessel Purchase Option Contract**” means any contract granting the Issuer or any Subsidiary the option to purchase one or more Vessels and any Related Assets, including any amendments, supplements or modifications thereto.

“**Voting Stock**” of any Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.

“**Weighted Average Life to Maturity**” means, when applied to any Indebtedness, Disqualified Stock or preferred stock at any date, the number of years obtained by dividing:

(1) the sum of the products obtained by multiplying (a) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect of such Indebtedness or redemption or similar payment in respect of such Disqualified Stock or preferred stock, by (b) the number of years (calculated to the nearest one-twelfth) that shall elapse between such date and the making of such payment; by

(2) the then outstanding principal amount of such Indebtedness or the maximum amount payable upon maturity of, or pursuant to any mandatory redemption provisions of, amount of such Disqualified Stock or preferred stock.

“**Wholly Owned Subsidiary**” of any Person means a Subsidiary of such Person, all of the outstanding Equity Interests of which (other than directors’ qualifying shares or shares required by applicable law to be held by a Person other than the Issuer or any of its Subsidiaries) are at the time owned by such Person or another Wholly Owned Subsidiary of such Person.

SECTION 1.02. Other Definitions.

Certain terms not defined in Section 1.01 are defined elsewhere in this Indenture and shall have those meanings assigned to them thereby.

SECTION 1.03. Rules of Construction.

For all purposes under this Indenture and the Notes, except as otherwise provided and unless the context otherwise requires:

(1) a term has the meaning assigned to it;

(2) an accounting term not otherwise defined has the meaning assigned to it in accordance with the Accounting Principles (for the avoidance of doubt, determinations of whether an action is for speculative purposes is not an accounting term);

- (3) words in the singular include the plural, and words in the plural include the singular;
- (4) “*herein*,” “*hereof*” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision;
- (5) the words “*including*,” “*includes*” and similar words shall be deemed to be followed by “*without limitation*”;
- (6) references to “\$” or dollars are to United States dollars; and
- (7) references to Subsidiaries are to Subsidiaries of the Issuer.

ARTICLE TWO THE NOTES

SECTION 2.01. Form and Dating.

- (a) The Notes and the Trustee’s certificate of authentication shall be substantially in the form of Exhibit A hereto. The Notes may have notations, legends or endorsements required by law, stock exchange rule or usage. The Issuer shall approve the form of the Notes and any notation, legend or endorsement on them. Each Note shall be dated the date of its issuance and show the date of its authentication.
- (b) The terms and provisions contained in the Notes and the Guarantees shall constitute, and are hereby expressly made, a part of this Indenture and, to the extent applicable, the Issuer, the Guarantors, the Trustee and the Security Agent, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby. However, to the extent any provision of any Note conflicts with the express provisions of this Indenture, the provisions of this Indenture shall govern and be controlling.
- (c) Notes offered and sold in reliance on Rule 144A shall be issued initially in the form of a single permanent global Note in registered form, substantially in the form set forth in Exhibit A (the “*144A Global Note*”), deposited with the DTC Custodian, duly executed by the Issuer and authenticated by the Trustee as hereinafter provided and shall bear the legends set forth in Exhibit B.
- (d) Notes offered and sold in offshore transactions in reliance on Regulation S shall be issued initially in the form of a single permanent global Note in registered form substantially in the form of Exhibit A (the “*Regulation S Global Note*”; and together with the 144A Global Note, the “*Initial Global Notes*”), deposited with the DTC Custodian, duly executed by the Issuer and authenticated by the Trustee as hereinafter provided and shall bear the legends set forth in Exhibit B.
- (e) Notes issued after the Issue Date shall be issued initially in the form of one or more global Notes in registered form, substantially in the form set forth in Exhibit A, deposited with the DTC Custodian, duly executed by the Issuer and authenticated by the Trustee as hereinafter provided and shall bear any legends required by applicable law (together with the Initial Global Notes, the “*Global Notes*”) or as Physical Notes.

(f) The aggregate principal amount of the Global Notes may from time to time be increased or decreased by adjustments made on the records of the DTC Custodian, as hereinafter provided. Notes issued in exchange for interests in a Global Note pursuant to Section 2.16 may be issued in the form of permanent certificated Notes in registered form in substantially the form set forth in Exhibit A and bearing the applicable legends, if any, (the “Physical Notes”).

SECTION 2.02. Execution, Authentication and Denomination; Additional Notes.

(a) One Officer of the Issuer (who shall have been duly authorized by all requisite corporate actions) shall sign the Notes for the Issuer by manual or facsimile signature.

(b) If an Officer whose signature is on a Note was an Officer at the time of such execution but no longer holds that office at the time the Trustee authenticates the Note, the Note shall nevertheless be valid.

(c) A Note shall not be valid until an authorized signatory of the Trustee manually signs the certificate of authentication on the Note. The signature shall be conclusive evidence that the Note has been duly and validly authenticated under this Indenture.

(d) The Trustee shall authenticate (i) on the Issue Date, Notes for original issue in the aggregate principal amount not to exceed \$360.0 million (the “Initial Notes”) and (ii) additional Notes (the “Additional Notes”) having identical terms and conditions to the Initial Notes, other than with respect to the date of issuance, registration rights, issue price and amount of interest payable on the first Interest Payment Date applicable thereto, in an unlimited amount (so long as not otherwise prohibited by the terms of this Indenture, including, without limitation, Sections 4.10 and 4.12 hereof, in each case upon a written order of the Issuer in the form of a certificate of an Officer of the Issuer (an “Authentication Order”). Each such Authentication Order shall specify the amount of Notes to be authenticated and the date on which the Notes are to be authenticated, whether the Notes are to be Initial Notes or Additional Notes and whether the Notes are to be issued as certificated Notes or Global Notes or such other information as the Trustee may reasonably request.

(e) Any Additional Notes shall be part of the same issue as the Notes being issued on the Issue Date and will vote and consent on all matters as one class with the Notes being issued on the Issue Date, including, without limitation, waivers, amendments, redemptions, Change of Control Offers, Collateral Sale Offers and Total Loss Event Offers. None of the Initial Notes or any Additional Notes shall have the right to vote or consent as a separate class on any manner (it being understood that the foregoing shall in no way limit the rights of Holders pursuant to Section 9.02(b)). The Additional Notes shall bear any legend required by applicable law.

(f) The Trustee may appoint an authenticating agent reasonably acceptable to the Issuer to authenticate Notes. Unless otherwise provided in the appointment, an

authenticating agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same rights as an agent to deal with the Issuer and Affiliates of the Issuer. The Trustee shall have the right to decline to authenticate and deliver any Notes under this Indenture if the Trustee, being advised by counsel, determines that such action may not lawfully be taken or if the Trustee in good faith shall determine that such action would expose the Trustee to personal liability.

(g) The Notes shall be issuable only in registered form without coupons in denominations of \$200,000 and integral multiples of \$1,000 in excess thereof.

(h) In case the Issuer, pursuant to and in accordance with Article Five, shall, in one or more related transactions, be consolidated or merged with or into any other Person or shall sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all the assets of such Issuer and its Subsidiaries taken as a whole to any Person, and the surviving Person resulting from such consolidation or surviving such merger or into which such Issuer shall have been merged, or the surviving Person which shall have participated in the sale, assignment, transfer, conveyance or other disposition as aforesaid, shall have assumed all of the obligations of such Issuer under the Notes and this Indenture pursuant to agreements reasonably satisfactory to the Trustee in accordance with Article Five (such Person, the “*Surviving Entity*”), any of the Global Notes authenticated or delivered prior to such consolidation, merger, sale, assignment, transfer, conveyance or other disposition may, from time to time, at the request of the surviving Person, be exchanged for other Global Notes executed in the name of the surviving Person with only such changes in phraseology as may be appropriate to reflect the identity of the surviving Person, but otherwise in substance of like tenor, terms and conditions in all respects as the Global Notes surrendered for such exchange and of like principal amount; and the Trustee, upon the request of the surviving Person, shall authenticate and deliver Global Notes as specified in such request for the purpose of such exchange. If Global Notes shall at any time be authenticated and delivered in any new name of a Surviving Entity pursuant to this Section 2.02 in exchange or substitution for or upon registration of transfer of any Notes, such Surviving Entity, at the option of the Holders but without expense to them, shall provide for the exchange of all Notes at the time outstanding for Notes authenticated and delivered in such new name.

SECTION 2.03. Registrar and Paying Agent.

(a) The Issuer shall maintain one or more paying agents (each, a “*Paying Agent*”) for the Notes in the City of London or New York, where the Notes may, subject to Section 2 of the Notes, be presented or surrendered for payment. The initial Paying Agent will be Citibank, N.A., London Branch. Citibank, N.A., London Branch hereby accepts such appointment. The Paying Agent shall (subject to Section 2.16) act solely as agent of the Issuer and shall have no duty or obligation to any Holders in the performance of their duties hereunder.

(b) The Issuer will also maintain a registrar (the “*Registrar*”) and a transfer agent (the “*Transfer Agent*”). The initial Registrar and Transfer Agent will be Citibank, N.A., London Branch, and Citibank, N.A., London Branch hereby accepts such appointments. The Registrar will maintain a register reflecting ownership of definitive registered notes outstanding from time to time and will facilitate transfer of definitive registered notes on the behalf of the Issuer. The Transfer Agent shall perform the functions of a transfer agent.

(c) The Issuer or any Subsidiary of the Issuer may act as Paying Agent or Registrar, except that for the purposes of Article Eight, neither the Issuer nor any Affiliate of the Issuer shall act as Paying Agent. The Issuer, upon notice to the Trustee, may have one or more co-registrars and one or more additional paying agents reasonably acceptable to the Trustee. The term “Registrar” includes any co-registrar and the term “Paying Agent” includes any additional paying agent. To the extent necessary, the Issuer shall enter into an appropriate agency agreement with any agent not a party to this Indenture, which agreement shall implement the provisions of this Indenture that relate to such agent. The Issuer shall notify the Trustee, in advance, of the name and address of any such agent. If the Issuer fails to maintain a Registrar or Paying Agent, the Trustee shall act as such.

(d) The Issuer may change the Paying Agent, the Registrar or the Transfer Agent without prior notice to the Holders of the Notes. For so long as the Notes are listed on the Official List of the Exchange and to the extent the rules and regulations of the Exchange so require, the Issuer will notify the Exchange of any change of Paying Agent, Registrar or Transfer Agent.

(e) For so long as the Notes are held in book-entry form through DTC, the Issuer will make all payments of principal, interest and premium, if any, in same day funds to the Paying Agent for further credit to DTC, which will, in turn, distribute such payments in accordance with its procedures.

(f) Without prejudice to the obligations of the Issuer and the Guarantors pursuant to Section 4.20, each Paying Agent shall be entitled to make payments net of any Taxes or other sums required by any applicable law to be withheld or deducted and if such a withholding or deduction is required, the Paying Agents will not pay an additional amount in respect of that withholding or deduction.

(g) Each Agent is entitled to refrain without liability from acting (i) upon any instructions if such instructions are conflicting, unclear or equivocal or (ii) in order to comply with any applicable law or regulation.

SECTION 2.04. Paying Agent To Hold Money.

Each Paying Agent other than the Trustee or the Issuer or any Subsidiary of the Issuer shall hold for the benefit of Holders or the Trustee all money held by the Paying Agent for the payment of principal of, premium, if any, or interest on, the Notes (whether such money has been distributed to it by the Issuer or any other obligor on the Notes), and shall notify the Trustee of any Default by the Issuer (or any other obligor on the Notes) in making any such payment. The Issuer at any time may require a Paying Agent to distribute all money held by it to the Trustee and account for any money disbursed and the Trustee may at any time during the continuance of any Payment Default, upon written request to a Paying Agent, require such Paying Agent to distribute all money held by it to the Trustee and to account for any money

distributed. Upon distribution to the Trustee of all money that shall have been delivered by the Issuer to the Paying Agent, the Paying Agent (if other than the Issuer or a Subsidiary of the Issuer) shall have no further liability for such money. If the Issuer or a Subsidiary of the Issuer acts as Paying Agent, it shall segregate and hold in a separate trust fund for the benefit of the Holders all money held by it as Paying Agent. Upon any bankruptcy or reorganization proceedings relating to the Issuer, the Trustee shall serve as Paying Agent for the Notes.

SECTION 2.05. Holder Lists.

The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of Holders. If the Trustee is not the Registrar, the Issuer shall furnish to the Trustee at least seven (7) Business Days prior to each Interest Payment Date and at such other times as the Trustee may request in writing a list, in such form and as of such date as the Trustee may reasonably require, of the names and addresses of Holders, which list may be conclusively relied upon by the Trustee.

SECTION 2.06. Transfer and Exchange.

(a) Subject to Sections 2.15 and 2.16, when Notes are presented to the Registrar with a request to register the transfer of such Notes or to exchange such Notes for an equal principal amount of Notes of other authorized denominations, the Registrar shall register the transfer or make the exchange as requested if its requirements for such transaction are met; *provided, however*, that the Notes surrendered for transfer or exchange shall be duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Issuer and the Registrar, duly executed by the Holder thereof or his or her attorney duly authorized in writing. To permit registrations of transfers and exchanges, the Issuer shall execute and the Trustee shall authenticate Notes at the Registrar's request. No service charge shall be made for any registration of transfer or exchange, but the Issuer may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith.

(b) The Issuer shall not be required and, without the prior written consent of the Issuer, the Registrar shall not be required to register the transfer of or exchange of any Note (i) during a period beginning at the opening of business 15 days before the mailing of a notice of redemption of Notes and ending at the close of business on the day of such mailing, (ii) selected for redemption in whole or in part pursuant to Article Three, except the unredeemed portion of any Note being redeemed in part, (iii) that has been tendered (and not validly withdrawn) in a Change of Control Offer, and (iv) beginning at the opening of business on any Record Date and ending on the close of business on the related Interest Payment Date.

(c) Any Holder of a beneficial interest in a Global Note shall, by acceptance of such beneficial interest, agree that transfers of beneficial interests in such Global Notes may be effected only through a book-entry system maintained by the Holder of such Global Note (or its agent) in accordance with the applicable legends thereon, and that ownership of a beneficial interest in the Note shall be required to be reflected in a book-entry system.

SECTION 2.07. Replacement Notes.

(a) If a mutilated Note is surrendered to the Trustee or if the Holder of a Note claims that the Note has been lost, destroyed or wrongfully taken, the Issuer shall issue and the Trustee shall authenticate a replacement Note if the Trustee's requirements are met. Such Holder must provide evidence satisfactory to the Trustee of such loss, destruction or wrongful taking, and an indemnity bond, surety or other indemnity, sufficient in the judgment of both the Issuer and the Trustee, to protect the Issuer, the Trustee or any agent from any loss which any of them may suffer if a Note is replaced. The Issuer and the Trustee may charge such Holder for their respective reasonable out-of-pocket expenses in replacing a Note pursuant to this Section 2.07, including reasonable fees and expenses of counsel.

(b) Every replacement Note is an additional obligation of the Issuer.

SECTION 2.08. Outstanding Notes.

(a) Notes outstanding at any time are all the Notes that have been authenticated by the Trustee except those cancelled by it, those delivered to it for cancellation and those described in this Section 2.08 as not outstanding. A Note does not cease to be outstanding because the Issuer, a Guarantor or any of their respective Affiliates holds the Note (subject to the provisions of Section 2.09).

(b) If a Note is replaced pursuant to Section 2.07 (other than a mutilated Note surrendered for replacement), it ceases to be outstanding unless the Issuer and a Responsible Officer of the Trustee receive written proof satisfactory to them that the replaced Note is held by a bona fide purchaser. A mutilated Note ceases to be outstanding upon surrender of such Note and replacement thereof pursuant to Section 2.07.

(c) If the principal amount of any Note is considered paid under Section 4.01, it ceases to be outstanding and interest ceases to accrue thereon. If on a Redemption Date or the Maturity Date the Trustee or Paying Agent (other than the Issuer or an Affiliate thereof) holds U.S. Legal Tender or non-callable U.S. Government Securities sufficient to pay all of the principal and interest due on the Notes payable on that date, then on and after that date such Notes cease to be outstanding and interest ceases to accrue thereon.

SECTION 2.09. Treasury Notes.

In determining whether the Holders of the required principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Issuer or any of its Affiliates shall be disregarded, except that, for the purposes of determining whether the Trustee shall be protected in conclusively relying on any such direction, waiver or consent, only Notes that a Responsible Officer of the Trustee actually knows are so owned shall be disregarded. Upon request of the Trustee, the Issuer shall promptly furnish to the Trustee an Officer's Certificate listing and identifying all Notes, if any, known by the Issuer to be owned or held by or for the account of the Issuer or any of its Affiliates, and the Trustee shall be entitled to accept such Officer's Certificate as conclusive evidence of the facts therein set forth and of the fact that all Notes not listed therein are entitled to participate in any direction, waiver or consent for the purposes of any such determination.

SECTION 2.10. Temporary Notes.

Until definitive Notes are ready for delivery, the Issuer may prepare and the Trustee shall, upon receipt of an authentication order, authenticate and deliver temporary Notes. Temporary Notes shall be substantially in the form of definitive Notes but may have variations that the Issuer considers appropriate for temporary Notes. Without unreasonable delay, the Issuer shall prepare and the Trustee shall authenticate and deliver definitive Notes in exchange for temporary Notes in equal principal amounts. Until such exchange, temporary Notes shall be entitled to the same rights, benefits and privileges as definitive Notes. Notwithstanding the foregoing, so long as the Notes are represented by a Global Note, such Global Note may be in typewritten form.

SECTION 2.11. Cancellation.

The Issuer at any time may deliver Notes to the Trustee for cancellation. The Registrar and the Paying Agent shall forward to the Trustee any Notes surrendered to them for transfer, exchange or payment. The Trustee, or at the direction of the Trustee, the Registrar or the Paying Agent (other than the Issuer or a Subsidiary), and no one else, shall cancel and, at the written direction of the Issuer, shall dispose of all Notes surrendered for transfer, exchange, payment or cancellation in accordance with its customary procedures. Subject to Section 2.07 hereof, the Issuer may not issue new Notes to replace Notes that it has paid or delivered to the Trustee for cancellation (which shall not prohibit the Issuer from issuing any Additional Notes in accordance with the terms of this Indenture). If the Issuer or any Guarantor shall acquire any of the Notes, such acquisition shall not operate as a redemption or satisfaction of the Indebtedness represented by such Notes unless and until the same are surrendered to the Trustee for cancellation pursuant to this Section 2.11.

SECTION 2.12. Defaulted Interest.

If the Issuer defaults in a payment of interest, if any, on the Notes, it shall pay the defaulted interest, *plus* (to the extent lawful) any interest payable on the defaulted interest, in any lawful manner, in each case at the rate provided in the Notes and in Section 4.01 hereof. The Issuer may pay the defaulted interest to the persons who are Holders on a subsequent special record date, which date shall be the 15th day next preceding the date fixed by the Issuer for the payment of defaulted interest or the next succeeding Business Day if such date is not a Business Day. At least 15 days before any such subsequent special record date, the Issuer or, at the Issuer's request, the Trustee, shall deliver electronically or mail to each Holder, with a copy to the Trustee, a notice that states the subsequent special record date, the payment date and the amount of defaulted interest, and interest payable on such defaulted interest, if any, to be paid.

SECTION 2.13. CUSIP and ISIN Numbers.

The Issuer in issuing the Notes may use "CUSIP" or "ISIN" numbers, and if so, the Trustee shall use the "CUSIP" or "ISIN" numbers in notices of redemption or exchange as a

convenience to Holders; *provided, however*, that any such notice may state that no representation is made as to the correctness or accuracy of the “CUSIP” or “ISIN” numbers printed in the notice or on the Notes, and that reliance may be placed only on the other identification numbers printed on the Notes, and any such redemption shall not be affected by any defect in or omission of such numbers; *provided, further*, that if any Additional Notes are not fungible with the Notes for U.S. federal income tax purposes, the Additional Notes will have a separate “CUSIP” number. The Issuer shall promptly notify the Trustee in writing of any change in the “CUSIP” or “ISIN” numbers.

SECTION 2.14. Deposit of Moneys.

Subject to Section 2 of the Notes, prior to 10:00 a.m. New York City time on each Interest Payment Date, Maturity Date, Redemption Date, Change of Control Payment Date, Annual Mandatory Offer Payment Date, Collateral Sale Payment Date and Total Loss Event Payment Date, the Issuer shall have deposited with the Paying Agent in immediately available funds money sufficient to make cash payments, if any, due on such Interest Payment Date, Maturity Date, Redemption Date, Change of Control Payment Date, Annual Mandatory Offer Payment Date, Collateral Sale Payment Date and Total Loss Event Payment Date, as the case may be, in a timely manner which permits the Paying Agent to remit payment to the Holders on such Interest Payment Date, Maturity Date, Redemption Date, Change of Control Payment Date, Annual Mandatory Offer Payment Date, Collateral Sale Payment Date and Total Loss Event Payment Date, as the case may be. No Paying Agent shall have any obligation to make payment of any funds to the Holders under this Indenture until such time as it has received such funds and has been able to identify or confirm receipt of such funds. The Issuer shall confirm payment to the Paying Agent prior to any such payment by SWIFT or facsimile by no later than 9:00 a.m. New York City time on the date of such payment.

SECTION 2.15. Book-Entry Provisions for Global Notes.

(a) The Global Notes initially shall (i) be registered in the name of the Depository or the nominee of the Depository, (ii) be delivered to the DTC Custodian and (iii) bear legends as set forth in Exhibit B, as applicable. Members of, or participants in, the Depository (“Participants”) shall have no rights under this Indenture with respect to any Global Note held on their behalf by the Depository or the DTC Custodian, or under the Global Note, and the Depository or its nominee as registered owner of the Global Notes, may be treated by the Issuer, the Trustee and any agent of the Issuer or the Trustee as the absolute owner of the Global Note for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall prevent the Issuer, the Trustee or any agent of the Issuer or the Trustee from giving effect to any written certification, proxy or other authorization furnished by the Depository or impair, as between the Depository and Participants, the operation of customary practices governing the exercise of the rights of a Holder of any Note.

(b) Transfers of Global Notes shall be limited to transfers in whole, but not in part, to the Depository, its successors and their respective nominees. Interests of beneficial owners in the Global Notes may be transferred or exchanged for Physical Notes in accordance with the rules and procedures of the Depository and the provisions of Section 2.16. In addition,

Physical Notes shall be transferred to all beneficial owners in exchange for their beneficial interests in Global Notes if (i) (a) the Depository notifies the Issuer that it is unwilling or unable to act as Depository for any Global Note or (b) has ceased to be a clearing agency registered under the Exchange Act, and the Issuer so notifies the Trustee in writing and a successor Depository is not appointed by the Issuer within 90 days of such notice or (ii) an Event of Default has occurred and is continuing and the Registrar has received a request from Holders of a majority of the aggregate principal amount of outstanding Notes to issue Physical Notes. Upon any issuance of a Physical Note in accordance with this Section 2.15(b), the Trustee shall register such Physical Note in the name of, and shall cause the same to be delivered to, such person or persons (or the nominee of any thereof). All such Physical Notes shall bear the applicable legends, if any.

(c) In connection with any transfer or exchange of a portion of the beneficial interest in a Global Note to beneficial owners pursuant to Section 2.15(b) above, the Registrar shall (if one or more Physical Notes are to be issued) reflect on its books and records the date and a decrease in the principal amount of such Global Note in an amount equal to the principal amount of the beneficial interest in the Global Note to be transferred, and the Issuer shall execute, and the Trustee shall authenticate and deliver, one or more Physical Notes of authorized denominations in an aggregate principal amount equal to the principal amount of the beneficial interest in the Global Note so transferred.

(d) In connection with the transfer of a Global Note as an entirety to beneficial owners pursuant to Section 2.15(b) above, such Global Note shall be deemed to be surrendered to the Trustee for cancellation, and (i) the Issuer shall execute and (ii) the Trustee shall upon written instructions from the Issuer authenticate and deliver, to each beneficial owner identified by the Depository in exchange for its beneficial interest in such Global Note, an equal aggregate principal amount of Physical Notes of authorized denominations.

(e) Any Physical Note constituting a Restricted Security delivered in exchange for an interest in a Global Note pursuant to clauses (b) or (c) of this Section 2.15 shall, except as otherwise provided by Section 2.16, bear the Private Placement Legend.

(f) The Holder of any Global Note may grant proxies and otherwise authorize any Person, including Participants and Persons that may hold interests through Participants, to take any action which a Holder is entitled to take under this Indenture or the Notes.

(g) None of the Trustee, the Registrar, the Paying Agents or Transfer Agents shall have any responsibility or obligation to any beneficial owner of an interest in a Global Note, any agent member or other member of, or a participant in, DTC (or any other applicable Depository) or other Person with respect to the accuracy of the records of DTC (or any other applicable Depository) or any nominee or participant or member thereof, with respect to an ownership interest in the Notes or with respect to the delivery to any agent member or other participant, member, beneficial owner or other Person (other than DTC (or any other applicable Depository)) of any notice or the payment of any amount or delivery of any Notes (or other security or property) under or with respect to such Notes. All notices and communications to be given to the Holders and all payments to be made to Holders in respect of the Notes shall be

given or made only to or upon the order of the registered Holders (which shall be DTC (or such other applicable Depository) or its nominee in the case of a Global Note). The rights of beneficial owners in any Global Note shall be exercised only through DTC (or such other applicable Depository), subject to its applicable rules and procedures. The Trustee, Registrar, Paying Agents and Transfer Agents may rely and shall be fully protected in relying upon information furnished by DTC (or such other applicable Depository) with respect to its agent members and other members, participants and any beneficial owners.

SECTION 2.16. Special Transfer and Exchange Provisions.

(a) Transfers to QIBs. The following provisions shall apply with respect to the registration of any proposed transfer of a Restricted Security to a QIB:

(A) the Registrar shall register the transfer of any Restricted Security, whether or not such Note bears the Private Placement Legend, if (x) the requested transfer is after the first anniversary of the Issue Date; *provided, however,* that neither the Issuer nor any Affiliate of the Issuer has held any beneficial interest in such Note, or portion thereof, at any time on or prior to the first anniversary of the Issue Date or (y) such transfer is being made by a proposed transferor who has checked the box provided for on the applicable Global Note stating, or has otherwise advised the Issuer and the Registrar in writing, that the sale has been made in compliance with the provisions of Rule 144A to a transferee who has signed the certification provided for on the applicable Global Note stating, or has otherwise advised the Issuer and the Registrar in writing, that it is purchasing the Note for its own account or an account with respect to which it exercises sole investment discretion and that it and any such account is a QIB within the meaning of Rule 144A, and is aware that the sale to it is being made in reliance on Rule 144A and acknowledges that it has received such information regarding the Issuer as it has requested pursuant to Rule 144A or has determined not to request such information and that it is aware that the transferor is relying upon its foregoing representations in order to claim the exemption from registration provided by Rule 144A;

(B) if the proposed transferee is a Participant and the Notes to be transferred consist of Physical Notes which after transfer are to be evidenced by an interest in the 144A Global Note, upon receipt by the Registrar of the Physical Note and written instructions given in accordance with the Depository's and the Registrar's procedures, the Registrar shall register the transfer and reflect on its book and records the date and an increase in the principal amount of the 144A Global Note in an amount equal to the principal amount of Physical Notes to be transferred, and the Registrar shall cancel the Physical Notes so transferred; and

(C) if the proposed transferor is a Participant seeking to transfer an interest in the Regulation S Global Note, upon receipt by the

Registrar of written instructions given in accordance with the Depository's and the Registrar's procedures, the Registrar shall register the transfer and reflect on its books and records the date and (A) a decrease in the principal amount of the Regulation S Global Note in an amount equal to the principal amount of the Notes to be transferred and (B) an increase in the principal amount of the 144A Global Note in an amount equal to the principal amount of the Notes to be transferred.

(b) [Reserved].

(c) Transfers to Non-U.S. Persons. The following provisions shall apply with respect to any transfer of a Restricted Security to a Non-U.S. Person under Regulation S:

(A) the Registrar shall register any proposed transfer of a Restricted Security to a Non-U.S. Person upon receipt of a certificate substantially in the form of Exhibit C from the proposed transferor and such certifications, legal opinions and other information as the Trustee or the Issuer may reasonably request; and

(B) (a) if the proposed transferor is a Participant holding a beneficial interest in the Rule 144A Global Note or the Note to be transferred consists of Physical Notes, upon receipt by the Registrar of (x) the documents required by clause (i) and (y) instructions in accordance with the Depository's and the Registrar's procedures, the Registrar shall reflect on its books and records the date and a decrease in the principal amount of the Rule 144A Global Note, in an amount equal to the principal amount of the 144A Global Note to be transferred or cancel the Physical Notes to be transferred, as the case may be, and (b) if the proposed transferee is a Participant, upon receipt by the Registrar of instructions given in accordance with the Depository's and the Registrar's procedures, the Registrar shall reflect on its books and records the date and an increase in the principal amount of the Regulation S Global Note in an amount equal to the principal amount of the Rule 144A Global Note or the Physical Notes, as the case may be, to be transferred.

(d) Note Delegending. Subject to the requirements of Section 2.16(f), at such time as the Issuer has arranged for the removal of the Private Placement Legend from the Notes in accordance with the Depository's applicable procedures, the Issuer shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02, the Trustee shall authenticate, one or more Global Notes and/or Physical Notes not bearing the Private Placement Legend in an aggregate principal amount equal to the principal amount of the beneficial interests in the Initial Global Notes or Physical Notes, as the case may be, delegended pursuant to the Depository's applicable procedures.

(e) Restrictions on Transfer and Exchange of Global Notes. Notwithstanding any other provisions of this Indenture, a Global Note may not be transferred as a whole except by

the Depository to a nominee of the Depository or by a nominee of the Depository to the Depository or another nominee of the Depository or by the Depository or any such nominee to a successor Depository or a nominee of such successor Depository.

(f) Private Placement Legend. Upon the transfer, exchange or replacement of Notes not bearing the Private Placement Legend unless otherwise required by applicable law, the Registrar shall deliver Notes that do not bear the Private Placement Legend. Upon the transfer, exchange or replacement of Notes bearing the Private Placement Legend, the Registrar shall deliver only Notes that bear the Private Placement Legend unless (i) there is delivered to the Trustee an Opinion of Counsel reasonably satisfactory to the Issuer and the Trustee to the effect that neither such legend nor the related restrictions on transfer are required in order to maintain compliance with the provisions of the Securities Act or (ii) such Note has been offered and sold pursuant to an effective registration statement under the Securities Act.

(g) General. By its acceptance of any Note bearing the Private Placement Legend, each Holder of such a Note acknowledges the restrictions on transfer of such Note set forth in this Indenture and in the Private Placement Legend and agrees that it shall transfer such Note only as provided in this Indenture. The Registrar shall retain copies of all letters, notices and other written communications received pursuant to Section 2.15 or Section 2.16. The Issuer shall have the right to inspect and make copies of all such letters, notices or other written communications at any reasonable time upon the giving of reasonable written notice to the Registrar. The Issuer and the Registrar are not required to transfer or exchange any Note selected for redemption, except the unredeemed portion of any Note being redeemed in part. The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among the Depository, Participants or beneficial owners of interests in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by the terms of, this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof. The Trustee shall have no responsibility for the actions or omissions of the Depository, or the accuracy of the books and records of the Depository.

(h) Cancellation and/or Adjustment of Global Note. At such time as all beneficial interests in a particular Global Note have been exchanged for Physical Notes or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note shall be returned to or retained and canceled by the Trustee in accordance with Section 2.11 hereof. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who shall take delivery thereof in the form of a beneficial interest in another Global Note or for Physical Notes, the principal amount of Notes represented by such Global Note shall be reduced accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depository at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who shall take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note shall be increased accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depository at the direction of the Trustee to reflect such increase.

SECTION 2.17. Persons Deemed Owners.

Prior to due presentment of a Note for registration of transfer and subject to this Section 2.17, the Issuer, the Trustee, any Paying Agent, any co-registrar and any Registrar may deem and treat the person in whose name any Note shall be registered upon the register of Notes kept by the Registrar as the absolute owner of such Note (whether or not such Note shall be overdue and notwithstanding any notation of the ownership or other writing thereon made by anyone other than the Issuer, any co-registrar or any Registrar) for the purpose of receiving all payments with respect to such Note and for all other purposes, and none of the Issuer, the Trustee, any Paying Agent, any co-registrar or any Registrar shall be affected by any notice to the contrary.

**ARTICLE THREE
REDEMPTION**SECTION 3.01. Notices to Trustee.

If the Issuer elects to redeem Notes pursuant to Section 5, Section 6 or Section 7 of the Notes, it shall notify the Trustee in writing of the Redemption Date, the Redemption Price and the principal amount of Notes to be redeemed. The Issuer shall give notice of redemption to the Trustee at least 5 Business Days prior to the date notice of such Redemption is to be delivered to Holders pursuant to Section 3.03, together with such documentation and records as shall enable the Paying Agent or Registrar (as applicable) to select the Notes to be redeemed.

SECTION 3.02. Selection of Notes To Be Redeemed.

(a) If less than all of the Notes are to be redeemed at any time, the Paying Agent or the Registrar (as applicable) shall select Notes for redemption as follows:

- (1) in accordance with applicable rules and procedures of DTC and any relevant securities exchange; or
- (2) if there are no such requirements of DTC or any relevant securities exchange or if the Notes are represented by global or definitive certificates, on a *pro rata* basis or by lot (as directed by the Issuer).

(b) No Notes of \$200,000 or less shall be redeemed in part. The Trustee shall promptly notify the Issuer in writing of the Notes selected for redemption and, in the case of any Note selected for partial redemption, the principal amount at maturity thereof to be redeemed or purchased.

SECTION 3.03. Notice of Redemption.

(a) At least 10 days but not more than 60 days before a Redemption Date (except that a notice issued in connection with a redemption referred to in Article Eight may be more than 60 days before such Redemption Date), the Issuer shall deliver electronically or mail or cause to be delivered electronically or mailed a notice of redemption by first class mail, postage prepaid, to each Holder whose Notes are to be redeemed at its registered address. Each notice for redemption shall identify the Notes (including the CUSIP or ISIN number) to be redeemed and shall state:

- (1) the Redemption Date;
- (2) the Redemption Price and the amount of accrued interest, if any, to be paid;
- (3) the name and address of the Paying Agent;
- (4) that Notes called for redemption must be surrendered to the Paying Agent to collect the Redemption Price *plus* accrued interest, if any;
- (5) that, unless the Issuer defaults in making the redemption payment, interest on Notes called for redemption ceases to accrue on and after the Redemption Date, and the only remaining right of the Holders of such Notes is to receive payment of the Redemption Price upon surrender to the Paying Agent of the Notes redeemed;
- (6) if any Note is being redeemed in part, the portion of the principal amount at maturity of such Note to be redeemed and that, after the Redemption Date, and upon surrender and cancellation of such Note, a new Note or Notes in aggregate principal amount equal to the unredeemed portion thereof shall be issued in the name of the Holder thereof; *provided* that each new Note will be in a principal amount of \$200,000 or an integral multiple of \$1,000 in excess thereof;
- (7) if fewer than all the Notes are to be redeemed, the identification of the particular Notes (or portion thereof) to be redeemed, as well as the aggregate principal amount of Notes to be redeemed and the aggregate principal amount of Notes to be outstanding after such partial redemption;
- (8) the conditions, if any, to such redemption; and
- (9) the Section of the Notes or this Indenture, as applicable, pursuant to which the Notes are to be redeemed.

(b) The notice, if mailed in a manner herein provided, shall be conclusively presumed to have been given, whether or not the Holder receives such notice. In any case, failure to give such notice by mail or any defect in the notice to the Holder of any Note designated for redemption in whole or in part shall not affect the validity of the proceedings for the redemption of any other Note. In connection with any redemption of the Notes, any such

redemption may, at the Issuer's discretion, be subject to one or more conditions precedent. In addition, if such redemption or notice of redemption is subject to one or more conditions precedent, such notice shall state that, in the Issuer's discretion, the Redemption Date may be delayed until such time as any or all of such conditions shall be satisfied, or such redemption may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been satisfied by the Redemption Date, or by the Redemption Date so delayed.

(c) At the Issuer's request, the Trustee shall give the notice of redemption to each Holder in the Issuer's name and at its expense; *provided, however*, that the Issuer shall have delivered to the Trustee, at least 5 Business Days prior to the giving of such notice (unless a shorter time period is agreed to by the Trustee), an Officer's Certificate requesting that the Trustee give such notice and setting forth the information to be stated in such notice as provided in Section 3.03(a). The notice, if mailed in the manner provided herein, shall be presumed to have been given, whether or not the Holder receives such notice.

SECTION 3.04. Effect of Notice of Redemption.

Once notice of redemption is mailed in accordance with Section 3.03 and subject to satisfaction or waiver of any conditions to such redemption, Notes called for redemption become due and payable on the Redemption Date and at the Redemption Price *plus* accrued interest, if any. Upon surrender to the Trustee or Paying Agent, such Notes called for redemption shall be paid at the Redemption Price (which shall include accrued interest, if any, thereon to, but not including, the Redemption Date), but payments of interest on Interest Payment Dates on or prior to the Redemption Date, shall be payable to Holders of record at the close of business on the relevant Record Dates. On and after the Redemption Date, interest, if any, shall cease to accrue on Notes or portions thereof called for redemption unless the Issuer shall have not complied with its obligations pursuant to Section 3.05. Failure to give notice or any defect in the notice to any Holder shall not affect the validity of the notice to any other Holder.

SECTION 3.05. Deposit of Redemption Price.

On or before 10:00 a.m. New York time on the Redemption Date, the Issuer shall deposit with the Paying Agent U.S. Legal Tender sufficient to pay the Redemption Price *plus* accrued and unpaid interest, if any, of all Notes (or portions thereof) to be redeemed on that date. The Trustee or the Paying Agent shall promptly return to the Issuer any money deposited with the Trustee or the Paying Agent by the Issuer in excess of the amounts necessary to pay the Redemption Price (including accrued and unpaid interest, if any) for all Notes to be redeemed. In addition, so long as no payment Default or Event of Default has occurred and is continuing, all money, if any, earned on funds held by the Paying Agent shall be remitted to the Issuer to the extent not applied to payments on the Notes.

SECTION 3.06. Notes Redeemed in Part.

If any Note is to be redeemed in part only, the notice of redemption that relates to such Note shall state the portion of the principal amount thereof to be redeemed. A new Note or

Notes in principal amount equal to the unredeemed portion of the original Note or Notes shall be issued in the name of the Holder thereof upon surrender and cancellation of the original Note or Notes; *provided* that each new Note will be in a principal amount of \$200,000 or an integral multiple of \$1,000 in excess thereof.

SECTION 3.07. Optional Redemption.

The Notes shall be optionally redeemable as set forth in Section 5, Section 6 and Section 7 of the Notes. Any such redemption shall be made in accordance with the provisions of this Article Three.

SECTION 3.08. Open Market Purchases.

The Issuer and/or its affiliates may acquire Notes by means other than a redemption, whether pursuant to a tender offer, exchange offer, open market purchase, negotiated transaction or otherwise, upon such terms and at such prices as the Issuer or such affiliates may determine, so long as such acquisition does not otherwise violate the terms of this Indenture.

**ARTICLE FOUR
COVENANTS**

SECTION 4.01. Payment of Notes.

(a) The Issuer shall pay the principal of (and premium, if any) and interest on the Notes in the manner provided in the Notes and this Indenture. An installment of principal of, or interest, if any, on, the Notes shall be considered paid on the date it is due if the Trustee or Paying Agent, other than the Issuer or a Subsidiary of the Issuer, (or if the Issuer or any of its Subsidiaries is the Paying Agent, the segregated account or separate trust fund maintained by the Issuer or such Subsidiary pursuant to Section 2.04) holds on that date as of 10:00 a.m. New York City time U.S. Legal Tender designated for and sufficient to pay the installment. Interest on the Notes shall be computed on the basis of a 360-day year comprised of twelve 30-day months.

(b) The Issuer shall pay interest on overdue principal (including, without limitation, post-petition interest in a proceeding under any Bankruptcy Law), and overdue interest, if any, to the extent lawful, at the same rate *per annum* borne by the Notes.

SECTION 4.02. Maintenance of Office or Agency.

(a) The Issuer shall maintain the office required under Section 2.03 (which may be an office of the Trustee or an affiliate of the Trustee or Registrar). The Issuer shall give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Issuer shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the address of the Trustee set forth in Section 13.02.

(b) The Issuer may also from time to time designate one or more other offices or agencies where the Notes may be presented for payment or surrendered for any or all such purposes and may from time to time rescind such designations. The Issuer shall give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency.

(c) The Issuer hereby designates the Corporate Trust Office of the Trustee as one such office or agency of the Issuer in accordance with Section 2.03 of this Indenture. Notwithstanding anything contained in this Section 4.02 to the contrary, in no event shall the Trustee serve as an agent or office for the purpose of service of process on behalf of the Issuer.

SECTION 4.03. Corporate Existence.

Except as otherwise permitted by Section 4.13 and Article Five, the Issuer shall do or cause to be done all things reasonably necessary to preserve and keep in full force and effect its corporate existence and the corporate, partnership or other existence of each Subsidiary in accordance with the respective organizational documents of each such Subsidiary and the material rights (charter and statutory) and material franchises of the Issuer and each Subsidiary; *provided, however*, that subject to Article Eleven hereof and the terms of the Security Documents, the Issuer shall not be required to preserve any such right, franchise or corporate existence with respect to itself or any Subsidiary, if the loss thereof would not, individually or in the aggregate, have a material adverse effect on the Issuer and the Subsidiaries, taken as a whole. For the avoidance of doubt, the Issuer and its Subsidiaries shall be permitted to change their organizational form; *provided, however*, that if the Issuer changes its organizational form to a partnership or a limited liability company, it will add a corporate co-issuer of the Notes if so requested by any Holder.

SECTION 4.04. Payment of Taxes.

The Issuer and the Guarantors shall, and shall cause each of the Subsidiaries to, pay or discharge or cause to be paid or discharged, before the same shall become delinquent, all material taxes, assessments and governmental charges levied or imposed upon them or any of the Subsidiaries or upon the income, profits or property of them or any of the Subsidiaries; *provided, however*, that subject to the terms of the applicable Security Documents, the Issuer and the Guarantors shall not be required to pay or discharge or cause to be paid or discharged any such tax, assessment, charge or claim whose amount the applicability or validity is being contested in good faith by appropriate actions and for which appropriate provision has been made, or any such tax, assessment, charge or claim that would not reasonably be expected to have a material adverse effect on the Issuer and the Guarantors taken as a whole.

SECTION 4.05. Further Assurances.

The Issuer and each Guarantor shall execute any and all further documents, financing statements, agreements and instruments, and take all further action that may be required under applicable law, or that the Trustee or the Security Agent may reasonably request, in order to grant, preserve, protect and perfect the validity and priority of the security interests

and Liens created or intended to be created by this Indenture, the Intercreditor Agreement, any Additional Intercreditor Agreement or the Security Documents on the Collateral. The Issuer shall deliver or cause to be delivered to the Trustee and the Security Agent all such instruments and documents (including Officer's Certificates, Opinions of Counsel and lien searches) as the Trustee or the Security Agent (without obligation on the part of the Trustee or Security Agent to do so) shall reasonably request to evidence compliance with this Section 4.05.

SECTION 4.06. Compliance Certificate; Notice of Default.

(a) The Issuer shall deliver to the Trustee, within 120 days after the close of each fiscal year, commencing with the fiscal year ended December 31, 2017, an Officer's Certificate signed by its chief executive officer, chief financial officer or chief accounting officer, stating that a review of the activities of the Issuer and the Guarantors, has been made under the supervision of the signing Officer with a view to determining whether the Issuer and the Guarantors have kept, observed, performed and fulfilled their obligations under this Indenture and the Security Documents to which they are a party and further stating, as to each such Officer signing such certificate, that to the best of such Officer's actual knowledge, the Issuer and the Guarantors during such preceding fiscal year have kept, observed, performed and fulfilled their respective obligations under this Indenture and the Security Documents to which they are a party in all material respects and as of the date of such certificate, there is no Default or Event of Default that has occurred and is (including, without limitation, a Default or Event of Default triggered by the failure of the Issuer and/or a Vessel Guarantor to maintain the Security Interests of each of the Security Documents required to be maintained on such date) or, if such signing Officers do know of such Default or Event of Default, the certificate shall specify such Default or Event of Default and what action, if any, the Issuer is taking or proposes to take with respect thereto. The Officer's Certificate shall also notify the Trustee should the Issuer elect to change the manner in which it fixes its fiscal year end.

(b) The Issuer shall deliver to the Trustee within 30 days after the Issuer (or any of its Officers) becomes aware of the occurrence of any Default an Officer's Certificate specifying the Default or Event of Default and what action, if any, the Issuer is taking or proposes to take with respect thereto.

SECTION 4.07. Financial Covenant.

(a) The Issuer shall ensure that, as of each Quarter Date, the Issuer and its Subsidiaries maintain an amount of unrestricted cash and Cash Equivalents equal to at least \$20 million on a consolidated basis ("*Minimum Liquidity Test*"); *provided* that for the purpose of determining compliance with this Section 4.07, cash and Cash Equivalents as of each Quarter Date shall be deemed to include contracted charter-hire receivables as of such date, so long as the Issuer collects any such unpaid charter-hire receivables within 20 Business Days following such Quarter Date.

(b) The Issuer undertakes to comply with the above Minimum Liquidity Test as of the end of each fiscal quarter and certify such compliance to the Trustee pursuant to an Officer's Certificate in form and substance satisfactory to the Trustee on each date that any annual or quarterly reports are furnished to the Trustee and the holders of the Notes in accordance with Section 4.17.

(c) If the Issuer fails to comply with the Minimum Liquidity Test on any Quarter Date, such failure may be cured (and, for the avoidance of doubt, no Default or Event of Default shall occur as a result of such failure) if, within 30 Business Days following such Quarter Date, (1) the Issuer receives net cash proceeds in exchange for the issuance of the common shares, preference shares or other equity securities of the Issuer or other cash contribution to the equity of the Issuer (such proceeds, the “*Equity Cure Proceeds*”), (2) after adjusting the calculation of the Issuer’s cash and Cash Equivalents as of such Quarter Date to give effect to the amount of net cash proceeds received, the Issuer would have complied with the Minimum Liquidity Test as of such Quarter Date and (3) the Issuer provides an Officer’s Certificate in form and substance satisfactory to the Trustee notifying the Trustee of the occurrence of (1) and (2) (such cure, the “*Equity Cure*”), *provided* that the amount of Equity Cure Proceeds necessary to effect an Equity Cure (“*Equity Cure Amount*”) may not be used to make Restricted Payments. To the extent that the amount of Equity Cure Proceeds received by the Issuer exceed the Equity Cure Amount, such excess amount may be used to make Restricted Payments or for any other purpose not otherwise prohibited under this Indenture.

SECTION 4.08. Waiver of Stay, Extension or Usury Laws.

The Issuer and each Guarantor covenants (to the extent permitted by applicable law) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law or any usury law or other law which may affect the covenants or the performance of this Indenture and the Security Documents, and (to the extent permitted by applicable law) each hereby expressly waives all benefit or advantage of any such law, and covenants that it shall not hinder, delay or impede the execution of any power herein granted to the Trustee, but shall suffer and permit the execution of every such power as though no such law had been enacted.

SECTION 4.09. Change of Control.

(a) If a Change of Control occurs, each Holder shall have the right to require the Issuer to repurchase all or any part (equal to \$200,000 or an integral multiple of \$1,000 in excess thereof) of that Holder’s Notes pursuant to the offer described below (the “*Change of Control Offer*”) on the terms set forth in this Indenture. In the Change of Control Offer, the Issuer shall offer a payment in cash (the “*Change of Control Payment*”) equal to 101% of the aggregate principal amount of Notes repurchased *plus* accrued and unpaid interest, if any, on the Notes repurchased, to the date of purchase, subject to the rights of Holders on the relevant Record Date to receive interest due on the relevant Interest Payment Date. Within 30 days following any Change of Control or, at the Issuer’s option, prior to such Change of Control but after it is publicly announced, the Issuer shall deliver electronically or mail a notice to each Holder (with a copy to the Trustee and the tender agent for such Change of Control Offer) describing the transaction or transactions that constitute the Change of Control and offering to repurchase Notes on the Change of Control Payment Date specified in the notice (the “*Change of Control Payment Date*”), which date shall be no earlier than 30 days and no later than 60 days

from the date such notice is delivered electronically or mailed, other than as may be required by law, pursuant to the procedures required by this Indenture and described in such notice. If the notice is sent prior to the occurrence of the Change of Control, it may be conditioned upon the consummation of the Change of Control. Such notice, whether sent before or after the consummation of the Change of Control, shall state:

- (1) that the Change of Control Offer is being made pursuant to this Section 4.09 and to the extent lawful that all Notes tendered and not withdrawn shall be accepted for payment;
- (2) the purchase price (including the amount of accrued interest) and the Change of Control Payment Date;
- (3) that any Note not tendered shall continue to accrue interest in accordance with the terms thereof;
- (4) that, unless the Issuer defaults in making payment therefor, any Note accepted for payment pursuant to the Change of Control Offer shall cease to accrue interest on and after the Change of Control Payment Date;
- (5) that Holders electing to have a Note purchased pursuant to a Change of Control Offer shall be required to surrender the Note, with the form entitled "Option of Holder to Elect Purchase" on the reverse of the Note completed, or transfer by book-entry transfer, to the tender agent for such Change of Control Offer at the address specified in the notice prior to the close of business on the third Business Day prior to the Change of Control Payment Date;
- (6) that Holders shall be entitled to withdraw their election if the tender agent for such Change of Control Offer receives, not later than two Business Days prior to the Change of Control Payment Date, a facsimile transmission or letter setting forth the name of the Holder, the principal amount of the Notes the Holder delivered for purchase, certificate numbers, if applicable, and a statement that such Holder is withdrawing its election to have such Note purchased; and
- (7) that Holders whose Notes are purchased only in part shall be issued new Notes in a principal amount equal to the unpurchased portion of the Notes surrendered (equal to \$200,000 or an integral multiple of \$1,000 in excess thereof).

(b) On the Change of Control Payment Date, the Issuer shall, to the extent lawful:

- (1) accept for payment all Notes or portions of Notes properly tendered pursuant to the Change of Control Offer;

(2) deposit with the tender agent for such Change of Control Offer an amount equal to the Change of Control Payment in respect of all Notes or portions of Notes properly tendered; and

(3) deliver or cause to be delivered to the Trustee the Notes properly accepted together with an Officer's Certificate stating the aggregate principal amount of Notes or portions of Notes being purchased by the Issuer.

(c) The tender agent for such Change of Control Offer shall promptly mail or pay by wire transfer to each Holder of Notes properly tendered the Change of Control Payment for such Notes, and the Trustee shall promptly authenticate pursuant to an Authentication Order and mail (or cause to be transferred by book entry) to each Holder a new Note equal in principal amount to any unpurchased portion of the Notes surrendered, if any; *provided that* each new Note shall be in a principal amount of \$200,000 or an integral multiple of \$1,000 in excess thereof. So long as no payment Default or Event of Default has occurred and is continuing and to the extent not applied to make payments on the Notes, the tender agent for such Change of Control Offer shall return to the Issuer any cash that remains unclaimed, together with interest, if any, thereon, held by them for the payment of the Redemption Price. However, if the Change of Control Payment Date is on or after an interest record date and on or before the related Interest Payment Date, any accrued and unpaid interest shall be paid to the Person in whose name a Note is registered at the close of business on such Record Date, and no additional interest shall be payable to Holders who tender Notes pursuant to the Change of Control Offer.

(d) The Issuer shall inform the Holders, the tender agent for such Change of Control Offer, the Security Agent and the Trustee of the results of the Change of Control Offer on or as soon as practicable after the Change of Control Payment Date. The Issuer shall be required to make a Change of Control Offer following a Change of Control whether or not the provisions of Section 5.01 hereof also apply in connection with the applicable Change of Control.

(e) The Issuer shall not be required to make a Change of Control Offer upon a Change of Control if (1) a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Indenture applicable to a Change of Control Offer made by the Issuer and purchases all Notes properly tendered and not withdrawn under the Change of Control Offer, or (2) notice of redemption has been given in respect of all of the Notes then outstanding pursuant to Section 3.03 hereof, unless and until there is a default in payment of the applicable Redemption Price.

(f) The Issuer shall comply with the requirements of any securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with the repurchase of the Notes as a result of a Change of Control. To the extent that the provisions of any securities laws or regulations conflict with the provisions of this Section 4.09, the Issuer shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations under this Section 4.09 by virtue of such compliance.

(g) If and for so long as the Notes are listed on the Official List of the Exchange and to the extent the rules and regulations of the Exchange so require, the Issuer will notify the Exchange of any Change of Control Offer and the results thereof.

SECTION 4.10. Incurrence of Indebtedness.

(a) The Issuer shall not, and shall not permit any of its Subsidiaries to, directly or indirectly incur, create or permit to subsist (collectively, “*incur*”) any Indebtedness.

(b) Section 4.10(a) shall not prohibit the incurrence of any of the following items of Indebtedness (collectively, “*Permitted Debt*”):

(1) any Indebtedness outstanding on the Issue Date arising under (i) the Notes Documents or (ii) the New Term Loan Facility;

(2) the Existing Indebtedness, *provided* that it is refinanced (and any security and guarantee is released) substantially concurrently with the issuance of the Notes;

(3) any Indebtedness between or among the Issuer and any of its Subsidiaries (including, without limitation, any intra-group loans to the Vessel Guarantors from the Issuer), *provided* that any Indebtedness having the Issuer or a Guarantor as debtor and a Subsidiary that is not a Guarantor or the Issuer as creditor shall, pursuant to and to the extent provided by the Intercreditor Agreement or any Additional Intercreditor Agreement, be subordinated to the Notes and the Guarantees (as applicable) and may only be serviced so long as no Event of Default has occurred and is continuing;

(4) obligations under any derivative transactions related to the Issuer and its Subsidiaries’ hedging made on a non-speculative basis;

(5) the incurrence of Indebtedness, or any recourse liability owing to any financial institution, by the Issuer or any of its Subsidiaries in respect of completion, bid, appeal, surety or performance bonds, advance payment guarantees and other guarantees or letters of credit issued in the ordinary course of business of the Issuer or relevant Subsidiary, *provided* that any incurrence of Indebtedness by a Vessel Guarantor pursuant to this clause (5) shall only be in respect of the relevant Vessel of such Vessel Guarantor;

(6) any Attributable Indebtedness and/or secured Indebtedness incurred by a Subsidiary (other than a Guarantor) in connection with such Subsidiary’s acquisition of, or investment in, a Vessel (or entity owning such Vessel or participation in a joint venture owning a Vessel) from an entity not being the Issuer or a Subsidiary (such Indebtedness, a “New Vessel Financing”), and which may be guaranteed by the Issuer, *provided* that:

(A) the ratio of the principal amount of the New Vessel Financing relative to the Fair Market Value of such acquisition or investment at the time of obtaining such New Vessel Financing does not exceed 70%; and

(B) such Indebtedness may only be secured by a mortgage over the acquired Vessel, a pledge or charge of the shares of the Subsidiary owning such Vessel and other security over assets, rights, bank accounts and contracts of the Subsidiary owning such Vessel comparable in nature to the Collateral (but, for the avoidance of doubt, no such Indebtedness may be secured on any Collateral).

(7) any Indebtedness under any pension and Tax liabilities incurred in the ordinary course of business or the incurrence by the Issuer or any of its Subsidiaries of Indebtedness in respect of workers' compensation claims, unemployment insurance, health, disability and other employee benefits or property, casualty or liability insurance, self-insurance obligations or bankers' acceptances;

(8) senior unsecured Indebtedness of the Issuer or any of its Subsidiaries (other than a Guarantor) maturing after the final maturity of the Notes and not otherwise permitted by this Section 4.10 which in the aggregate shall not exceed \$100.0 million for the Issuer and its Subsidiaries as a whole at any time;

(9) senior unsecured Indebtedness of the Issuer or any of its Subsidiaries (other than a Guarantor) not otherwise permitted by this Section 4.10 which in aggregate shall not exceed \$5.0 million for the Issuer and its Subsidiaries as a whole at any time;

(10) Permitted Refinancing Indebtedness in respect of Indebtedness (other than intercompany Indebtedness) of the Issuer or any of its Subsidiaries that was permitted by this Indenture to be incurred under clauses (1) or (6) of this Section 4.10(b);

(11) (A) the guarantee (whether or not secured) by the Issuer or any Subsidiary (other than a Guarantor) of Indebtedness of the Issuer or any Subsidiary that was permitted to be incurred by another provision of this Section 4.10; *provided* that if the Indebtedness being guaranteed is contractually subordinated to the notes or a Guarantee, then the guarantee shall be contractually subordinated to the same extent as the Indebtedness guaranteed and (B) guarantees by the Issuer or any Guarantor in respect of Permitted Refinancing Indebtedness incurred under clause (10) of this Section 4.10(b) in respect of any Notes or the New Term Loan Facility;

(12) the incurrence by the Issuer or any of its Subsidiaries of Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently drawn against insufficient funds, so long as such Indebtedness is covered within 30 Business Days;

(13) the incurrence by the Issuer or any of its Subsidiaries of Indebtedness consisting of guarantees, earn-outs, indemnities, contribution, obligations in respect of purchase price adjustments or, in each case, similar obligations, in connection with the disposition or acquisition of assets, including, without limitation, shares of Capital Stock;

(14) the incurrence by the Issuer or any of its Subsidiaries of Indebtedness constituting reimbursement obligations with respect to letters of credit so long each such obligation is satisfied within 30 days of the incurrence thereof;

(15) the incurrence by the Issuer or any of its Subsidiaries of Indebtedness in the form of customer deposits and advance payments received in the ordinary course of a Permitted Business from customers for services purchased in the ordinary course of a Permitted Business;

(16) Indebtedness of the Issuer or any of its Subsidiaries arising from customary cash management services or in connection with any automated clearinghouse transfer of funds in the ordinary course of a Permitted Business; and

(17) Indebtedness of a Person acquired by the Issuer or a Subsidiary or merged, consolidated, amalgamated or liquidated with or into a Subsidiary or the Issuer, *provided* that such Indebtedness was incurred or issued, as applicable, prior to such transaction and not in connection with or in contemplation of such transaction; *provided* further that either (a) at the time of entry into definitive documentation with respect to such transaction, the ratio of the principal amount of the Total Debt of such Person to the Fair Market Value of such Person does not exceed 80% or (b) the ratio of the principal amount of the Total Debt relative to the Adjusted EBITDA of the Issuer or the Person formed by or surviving such transaction on a *pro forma* basis will be no greater than the ratio of the Issuer was prior to such transaction..

(c) For purposes of determining compliance with this Section 4.10, in the event that an item of proposed Indebtedness meets the criteria of more than one of the categories of Permitted Debt described above, the Issuer, in its sole discretion, may divide and/or classify such item of Indebtedness (or any portion thereof) on the date of its incurrence, or later re-divide and/or reclassify, all or a portion of such item of Indebtedness, in any manner that complies with this Section 4.10.

(d) The accrual of interest, the accrual of dividends, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, and the payment of dividends on Disqualified Stock or preferred stock in the form of additional shares of the same class of Disqualified Stock or preferred stock, as the case may be, will not be deemed to be an incurrence of Indebtedness or an issuance of Disqualified Stock or preferred stock for purposes of this Section 4.10.

(e) The amount of any Indebtedness outstanding as of any date will be:

- (1) the accreted value of such Indebtedness, in the case of any Indebtedness issued with original issue discount;
- (2) the principal amount of the Indebtedness, in the case of any other Indebtedness; and
- (3) in respect of Indebtedness of another Person secured by a Lien on the assets of the specified Person, the lesser of:
 - (A) the Fair Market Value of such assets at the date of determination; and
 - (B) the amount of the Indebtedness of the other Person that is secured by such assets.

(f) For purposes of determining compliance with this Section 4.10, (i) Indebtedness of a Person acquired by or merged into the Issuer or its Subsidiaries or that otherwise becomes a Subsidiary of the Issuer shall be deemed to have been incurred by the Issuer or its Subsidiaries, as the case may be, at the time such Person is acquired, merged or otherwise becomes such a Subsidiary of the Issuer, as the case may be, (ii) the maximum amount of Indebtedness, Disqualified Stock or preferred stock that the Issuer and its Subsidiaries may incur pursuant to this Section 4.10 shall not be deemed to be exceeded, with respect to any outstanding Indebtedness, Disqualified Stock or preferred stock due solely to the result of fluctuations in the exchange rates of currencies and (iii) the outstanding principal amount of any particular Indebtedness shall be counted only once and any obligations arising under any guarantee, Lien, letter of credit or similar instrument supporting such Indebtedness permitted to be incurred under this Section 4.10 shall not be double counted. In addition, in connection with the incurrence of any Indebtedness pursuant to this Section 4.10, the Issuer may elect, pursuant to an Officer's Certificate delivered to the Trustee, to treat all or any portion of the commitment under any Indebtedness which is to be incurred, as being incurred as of the calculation date and any subsequent incurrence of Indebtedness under such commitment that was so treated shall not be deemed, for purposes of this calculation, to be an incurrence of additional Indebtedness.

(g) For purposes of determining compliance with any U.S. Dollar-denominated restriction within this Section 4.10, the U.S. dollar-equivalent principal amount of Indebtedness denominated in a different currency shall be utilized, calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred; *provided, however*, that (i) if such Indebtedness denominated in non-dollar currency is subject to a

Currency Exchange Protection Agreement with respect to U.S. dollars, the amount of such Indebtedness expressed in U.S. dollars will be calculated so as to take account of the effects of such Currency Exchange Protection Agreement; and (ii) the dollar-equivalent of the principal amount of any such Indebtedness outstanding on the Issue Date shall be calculated based on the relevant currency exchange rate in effect on the Issue Date. The principal amount of any refinancing Indebtedness incurred in the same currency as the Indebtedness being refinanced will be the dollar-equivalent of the Indebtedness refinanced determined on the date such Indebtedness was originally incurred, except that to the extent that:

(1) such dollar-equivalent was determined based on a Currency Exchange Protection Agreement, in which case the Permitted Refinancing Indebtedness will be determined in accordance with the preceding sentence; and

(2) the principal amount of the refinancing Indebtedness exceeds the principal amount of the Indebtedness being refinanced, in which case the dollar-equivalent of such excess will be determined on the date such refinancing Indebtedness is being incurred.

(h) The principal amount of any Indebtedness incurred to refinance other Indebtedness, if incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such Permitted Refinancing Indebtedness is denominated that is in effect on the date of such refinancing.

SECTION 4.11. Limitations on Restricted Payments.

(a) The Issuer shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, take any of the following actions or payments, in each case whether in cash or in kind (including, without limitation, the entry into any total return swaps or instruments with similar effect) (collectively referred to as “*Restricted Payments*”):

(1) declare or make any dividend payment or other equity or capital distributions or payments to any of their respective shareholders;

(2) make any loans to, or make any payments on loans from, any of their respective shareholders;

(3) repurchase shares (including the Existing Preferred Shares) from any of their respective shareholders;

(4) make any voluntary or optional principal payment on or with respect to, or purchase, redeem, defease or otherwise acquire or retire for value, any Subordinated Indebtedness of the Issuer or any Guarantor other than at the scheduled maturity of such Subordinated Indebtedness;

(5) provide any Financial Support, other than Permitted Financial Support; or

(6) make any Restricted Transfers.

(b) Section 4.11(a) shall not prohibit the following actions or payments (“Permitted Payments”), provided that no Event of Default shall have occurred and be continuing or would occur as a consequence of such Permitted Payments:

(1) any declaration or payment of dividends or distributions in respect of the Issuer’s Existing Preferred Shares outstanding on the Issue Date, provided that the aggregate amount of any such dividends or distributions per year shall not exceed 8.75% of the stated liquidation preference of such Existing Preferred Shares;

(2) beginning January 1, 2021, any declaration or payment of dividends or distributions or repurchases in respect of the Issuer’s Common Equity in an aggregate amount per year equal to 50% of the consolidated net profit after taxes of the Issuer for the preceding financial year based on the audited annual accounts for such preceding financial year, provided that any unutilized portion may be carried forward to succeeding financial years;

(3) any declaration or payment of dividends or distributions or repurchases in respect of the Issuer’s Common Equity or any other instrument accounted for as equity not to exceed the aggregate amount contributed to the Issuer’s equity after the Issue Date, excluding any Equity Cure Amounts or any amounts used to make Permitted Transfers pursuant to clause (2)(b) of the definition thereof;

(4) any declaration or payment of dividends or distributions by a Subsidiary in respect of its Capital Stock to, or repurchases by a Subsidiary of its Capital Stock from, (i) the Issuer or another Subsidiary or (ii) to the extent such Subsidiary is not wholly owned, its shareholders on a *pro rata* basis;

(5) the payment of any dividend or other distribution within 60 days after the date of declaration of such dividend or other distribution, if at the date of declaration, such payment would have complied with the provisions of this Indenture;

(6) the payment, defeasance, redemption, repurchase or other acquisition or retirement for value of Subordinated Indebtedness of the Issuer or any of its Subsidiaries with the net proceeds from a substantially concurrent incurrence of Permitted Refinancing Indebtedness or issuance and sale of, or in exchange for, Qualified Equity Interests;

(7) the declaration and payment of cash dividends to holders of any class or series of Disqualified Stock of the Issuer or preferred stock of a Subsidiary, in each case, issued after the Issue Date in accordance with Section 4.10;

(8) (i) any issuance of Capital Stock by the Issuer to any Subsidiary or by any Subsidiary to the Issuer or another Subsidiary and (ii) inter-company loans or other Indebtedness owed by the Issuer or any Subsidiary to the Issuer or any Subsidiary, in each case, in compliance with Section 4.10 and any actions or payments thereon;

(9) the repurchase, redemption or other acquisition or retirement for value of any Qualified Equity Interests of the Issuer or any of its Subsidiaries held by any current or former officer, director, consultant or employee of the Issuer or any of its Subsidiaries (or heirs or other permitted transferees thereof); *provided* that the aggregate price paid for all such repurchased, redeemed, acquired or retired Equity Interests may not exceed \$1.0 million (determined as of the beginning of such calendar year) in any calendar year; *provided, further*, that such amount may be increased by an amount not to exceed:

(i) the cash proceeds from the sale of Qualified Equity Interests of the Issuer to directors, officers, employees or consultants of the Issuer or any of its Subsidiaries that occurs after the Issue Date, *plus*

(ii) the cash proceeds of key-man life insurance policies received by the Issuer or any of its Subsidiaries after the Issue Date; *provided* that to the extent that any portion of the unused amounts permitted to be paid pursuant to this clause is not utilized in any year, such unused portion may be carried forward and be utilized in one or more subsequent years;

(10) the repurchase of Equity Interests deemed to occur upon the exercise of options, warrants or other convertible securities to the extent such Equity Interests represent a portion of the exercise price of those options, warrants or other convertible securities and cash payments in lieu of the issuance of fractional shares in connection with the exercise of options, warrants or other convertible securities;

(11) payments made to purchase, redeem, defease or otherwise acquire or retire for value any Subordinated Indebtedness of the Issuer or any of its Subsidiaries (i) following the occurrence of a Change of Control, at a purchase price not greater than 101% of the outstanding principal amount (or accreted value, in the case of any debt issued at a discount from its principal amount at maturity) thereof, *plus* accrued and unpaid interest, if any, after the Issuer and its Subsidiaries have satisfied their obligations with respect to a Change of Control Offer in compliance with Section 4.09 or (ii) with the Excess Collateral Proceeds of one or more Asset Sales, at a purchase price not greater than 100% of the principal amount (or accreted value, in the case of any debt issued at a discount from its principal amount at maturity) thereof, *plus* accrued and unpaid interest, if any, after the Issuer and its Subsidiaries have satisfied their obligations with

respect to such Excess Collateral Proceeds in compliance with Section 4.13 to the extent that such Subordinated Indebtedness is required to be repurchased or redeemed pursuant to the terms thereof as a result of such Change of Control or Asset Sale;

(12) any payments (including of principal, interest or otherwise) on any loans or other debt arrangements provided to the Issuer or any Subsidiary by any of their Affiliates and incurred by the Issuer or any Subsidiary in compliance with the other provisions of this Indenture for purposes of financing the acquisition of a Vessel and its Related Assets; or

(13) obligations with respect to Restricted Payments held by a Person at the time such Person becomes a Subsidiary of the Issuer or is merged with or consolidated into the Issuer or a Subsidiary of the Issuer, *provided* that at the time of entry into definitive documentation relating to the transaction, such Person had common or preferred equity publicly listed on an internationally recognized stock exchange, and, with respect to such publicly listed equity, had a market capitalization greater than \$500.0 million; *provided further* that such obligations (i) do not relate to special dividends and (ii) existed prior to such transaction and were not created in connection with, or in contemplation of, such transaction.

(c) The amount of all Restricted Payments (other than cash and Cash Equivalents) will be the Fair Market Value on the date of the Restricted Payment of the asset(s) or securities proposed to be transferred or issued by the Issuer or such Subsidiary, as the case may be, pursuant to the Restricted Payment.

(d) For purposes of determining compliance with this Section 4.11, in the event that a Restricted Payment permitted pursuant to this Section 4.11 or a Permitted Financial Support meets the criteria of more than one of the categories of Permitted Payment described in clauses (1) through (13) of Section 4.11(b) or one or more clauses of the definition of "*Permitted Financial Support*," the Issuer shall be permitted to classify such Restricted Payment or Permitted Financial Support (or any portion thereof) on the date it is made, or later reclassify, all or a portion of such Restricted Payment or Permitted Financial Support, in any manner that complies with this Section 4.11, and such Restricted Payment or Permitted Financial Support shall be treated as having been made pursuant to only one of such clauses of this Section 4.11 or of the definition of "*Permitted Financial Support*."

SECTION 4.12. Limitations on Liens.

The Issuer shall not, and shall not permit any Subsidiary to, directly or indirectly, create, permit to subsist or allow to exist any Lien on any asset or revenue of the Issuer or any Subsidiary, whether owned on the Issue Date or thereafter acquired, except Permitted Liens.

SECTION 4.13. Limitation on Asset Sales Involving Certain Collateral.

(a) The Issuer will not, and will not permit any of its Subsidiaries to, consummate an Asset Sale involving Mortgaged Vessels or the Equity Interests of Vessel Guarantors unless:

(1) the Issuer or any of its Subsidiaries receives consideration at the time of the Asset Sale at least equal to the Fair Market Value (for the avoidance of doubt, the Fair Market Value may be determined at the time a contract is entered into for an Asset Sale) of the assets or Equity Interests issued or sold or otherwise disposed of;

(2) the consideration received in the Asset Sale by the Issuer or such Subsidiary consists of cash or Cash Equivalents or Vessels and Related Assets thereof and a first-priority Lien is provided in favor of the Notes over such consideration (and in the case of cash or Cash Equivalents, such Lien shall remain in place until such cash or Cash Equivalents are applied in accordance with Section 4.13(c)); and

(3) such Asset Sale is made in compliance with Section 11.04.

(b) For purposes of clause (2) of Section 4.13(a), any securities, notes or other obligations received by the Issuer or any such Subsidiary from such transferee or any other Person on account of such Asset Sale that are, within 90 days of the Asset Sale, converted, sold or exchanged by the Issuer or such Subsidiary into cash or Cash Equivalents, will be deemed to be cash to the extent of the cash or Cash Equivalents received in that conversion, sale or exchange.

(c) In respect of any Asset Sale subject to this Section 4.13, within 365 days (subject to extension as provided herein) after the receipt of any Net Proceeds from such Asset Sale, the Issuer or the applicable Subsidiary shall:

(1) apply an amount equal to such Net Proceeds to:

(A) repay or prepay obligations under the New Term Loan Facility or any other Indebtedness to the extent that such obligations rank super-senior to the Notes and any additional Notes under the Intercreditor Agreement;

(B) acquire one or more Vessels and Related Assets thereof and make such Vessels and Related Assets subject to a first-priority Lien in accordance with Section 11.09; or

(C) (i) redeem or repurchase Notes in compliance with Section 3.07, a Collateral Sale Offer described below, open market purchases and/or privately negotiated transactions or otherwise or (ii) repay or prepay any other Indebtedness that ranks *pari passu* with the Notes or the Guarantees of the Notes;

- (2) enter into a binding commitment to apply all or part of the Net Proceeds pursuant to clause (B) above or make a determination in good faith to potentially apply all or a portion of such Net Proceeds towards the exercise of an outstanding Vessel Purchase Option Contract, *provided* that such binding commitment or determination shall be treated as a permitted application of the Net Proceeds from the date thereof until the earlier of (x) the date on which such acquisition or expenditure is consummated, (y) the date such Vessel Purchase Option Contract terminates or expires and (z) the 365th day following the expiration of the aforementioned 365-day period; and/or
- (3) any combination of the foregoing;

provided that during such 365-day period (or any extension thereof pursuant to clause (2) above) and pending the final application of any Net Proceeds in accordance with this Section 4.13(c) or Section 4.13(e), such Net Proceeds shall be deposited in a Collateral Account charged with a first priority Lien in favor of the holders of the Notes and constitute Collateral, subject to release in accordance with the provisions of the Intercreditor Agreement.

(d) Notwithstanding the foregoing, the Issuer may elect to repay or redeem Indebtedness or make an acquisition or otherwise apply cash in accordance with clauses (1), (2) or (3) above prior to receiving the Net Proceeds attributable to any Asset Sale and deem the amount of any such repayment, investment, acquisition or cash payment as an application of Net Proceeds pursuant to and in accordance with such clauses.

(e) Any Net Proceeds from Asset Sales subject to this Section 4.13 that are not applied or invested as provided in Section 4.13(c) will constitute "Excess Collateral Proceeds." When the aggregate amount of Excess Collateral Proceeds exceeds \$25.0 million, the Issuer will make an offer (a "Collateral Sale Offer") to all Holders to purchase the maximum principal amount of Notes that may be required to be purchased out of the Excess Collateral Proceeds (the "Excess Collateral Proceeds Payment Amount"). The offer price for the Notes in any Collateral Sale Offer will be equal to 102% of principal amount of the Notes *plus* accrued and unpaid interest thereon, if any, to the date of purchase, and shall be payable in cash ("Collateral Sale Offered Price"). If any Excess Collateral Proceeds remain after consummation of a Collateral Sale Offer, those Excess Collateral Proceeds may be used for any purpose not otherwise prohibited by this Indenture

(f) If the aggregate principal amount of Notes tendered into such Collateral Sale Offer exceeds the amount of Excess Collateral Proceeds, the tender agent for such Collateral Sale Offer shall select the Notes to be purchased (i) in accordance with applicable rules and procedures of DTC and any relevant securities exchange or (ii) if there are no such requirements of DTC or any relevant securities exchange or if the Notes are represented by

global or definitive certificates, on a *pro rata* basis or by lot (as directed by the Issuer) from among the Notes tendered for repurchase. Upon completion of each Collateral Sale Offer, the amount of Excess Collateral Proceeds will be reset at zero (regardless of whether there are any remaining Excess Collateral Proceeds upon such completion). The Issuer may elect to satisfy its obligations to make a Collateral Sale Offer prior to expiration of the relevant period or with respect to Excess Collateral Proceeds of \$25.0 million or less.

(g) Notwithstanding the foregoing, the Issuer may, at its option, combine any Collateral Sale Offer pursuant to this Section 4.13, any Total Loss Event Offer pursuant to Section 4.21 and/or any Annual Mandatory Offer pursuant to Section 4.23 it may become obligated to make.

(h) Upon the commencement of a Collateral Sale Offer, the Issuer shall deliver electronically or send, or cause to be delivered electronically or sent, by first class mail, a notice to the Trustee and to each Holder at its registered address. The notice shall contain all instructions and materials necessary to enable such Holder to tender Notes pursuant to the Collateral Sale Offer. Any Collateral Sale Offer shall be made to all Holders. The notice, which shall govern the terms of the Collateral Sale Offer, shall state:

(1) that the Collateral Sale Offer is being made pursuant to this Section 4.13 and that, to the extent lawful, all Notes tendered and not withdrawn shall be accepted for payment (unless prorated);

(2) the Excess Collateral Proceeds Payment Amount, the Collateral Sale Offered Price, and the date on which Notes tendered and accepted for payment shall be purchased, which date shall be at least 10 days and not later than 60 days from the date such notice is mailed or delivered electronically (the "*Collateral Sale Payment Date*");

(3) that any Notes not tendered or accepted for payment shall continue to accrue interest in accordance with the terms thereof;

(4) that, unless the Issuer default in making such payment, any Notes accepted for payment pursuant to the Collateral Sale Offer shall cease to accrue interest on and after the Collateral Sale Payment Date;

(5) that Holders electing to have any Notes purchased pursuant to any Collateral Sale Offer shall be required to surrender the Notes, with the form entitled "Option of Holder to Elect Purchase" on the reverse of the Note completed, or transfer by book entry transfer, to the Issuer, a depository, if appointed by the Issuer, or the Paying Agent at the address specified in the notice at least three Business Days before the Collateral Sale Payment Date;

(6) that Holders shall be entitled to withdraw their election if the Issuer, the Depository or the Paying Agent, as the case may be, receives, not later than two Business Days prior to the Collateral Sale Payment Date, a

notice setting forth the name of the Holder, the principal amount of the Note the Holder delivered for purchase and a statement that such Holder is withdrawing its election to have such Note purchased;

(7) that if the aggregate principal amount of Notes tendered into such Collateral Sale Offer exceeds the amount of Excess Collateral Proceeds Payment Amount, the tender agent for such Collateral Sale Offer shall select the Notes to be purchased (i) in accordance with applicable rules and procedures of DTC and any relevant securities exchange or (ii) if there are no such requirements of DTC or any relevant securities exchange or if the Notes are represented by global or definitive certificates, on a *pro rata* basis (with such adjustments as may be deemed appropriate by the Issuer so that only Notes in denominations of \$200,000 or integral multiples of \$1,000 in excess thereof, shall be purchased) or by lot (as directed by the Issuer) from among the Notes tendered for repurchase; and

(8) that Holders whose Notes were purchased only in part shall be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered (or transferred by book-entry).

(i) On the Collateral Sale Payment Date, the Issuer shall, to the extent lawful: (1) accept for payment all Notes or portions thereof properly tendered pursuant to the Collateral Sale Offer, subject to *pro ration* in accordance with Section 4.13(h)(7) if the aggregate Notes tendered exceed the Excess Collateral Proceeds Payment Amount allocable to the Notes; (2) deposit with the tender agent for such Collateral Sale Offer U.S. Legal Tender equal to the lesser of the Excess Collateral Proceeds Payment Amount allocable to the Notes and the amount sufficient to pay the Collateral Sale Offered Price in respect of all Notes or portions thereof so tendered; and (3) deliver or cause to be delivered to the Trustee the Notes so accepted together with an Officer's Certificate stating the aggregate principal amount of Notes or portions thereof being repurchased by the Issuer. The Issuer shall inform the Holders of the results of the Collateral Sale Offer on or as soon as practicable after the Collateral Sale Payment Date.

(j) The tender agent for such Collateral Sale Offer shall promptly mail or pay by wire transfer to each Holder whose Notes have been properly tendered the Collateral Sale Offered Price for such Notes, and the Trustee shall promptly authenticate pursuant to an Authentication Order and mail (or cause to be transferred by book-entry) to each Holder a new Note equal in principal amount to any unreurchased portion of the Notes surrendered, if any; *provided* that each such new Note shall be in principal amount of \$200,000 or an integral multiple of \$1,000 in excess thereof. So long as no payment Default or Event of Default has occurred and is continuing, and to the extent not applied to make payments on the Notes, the tender agent for such Collateral Sale Offer shall return to the Issuer any cash that remains unclaimed, together with interest, if any, thereon, held by them for the payment of the Collateral Sale Offered Price. However, if the Collateral Sale Payment Date is on or after a Record Date and on or before the related Interest Payment Date, any accrued and unpaid interest shall be paid to the Person in whose name a Note is registered at the close of business on such Record Date, and no additional interest shall be payable to Holders who tender Notes pursuant to the Collateral Sale Offer.

(k) The Issuer shall comply with the requirements of any securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with each repurchase of Notes pursuant to a Collateral Sale Offer. To the extent that the provisions of any securities laws or regulations conflict with this Section 4.13, the Issuer shall comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under this Section 4.13 by virtue of such compliance.

SECTION 4.14. Arm's Length Transactions.

(a) The Issuer will not, and will not permit any of its Subsidiaries to, enter into any material transaction with any Person, except on arm's length terms; *provided, however*, that this Section 4.14 shall not apply to any intercompany transactions between or among (a) the Issuer and any of its Subsidiaries or (b) any Subsidiaries of the Issuer. For purposes of this Section 4.14, a "material transaction" means any transaction, or series of related transactions, involving aggregate payments or consideration in excess of \$2.0 million.

SECTION 4.15. Dividend and Other Payment Restrictions Affecting Subsidiaries.

(a) The Issuer and the Vessel Guarantors shall not, directly or indirectly, create or permit to exist any contractual restriction on any Vessel Guarantor's right to:

- (1) pay dividends or make any other distributions on its Capital Stock to the Issuer, or make payments on any Indebtedness owed to the Issuer;
- (2) make loans or advances to the Issuer; or
- (3) transfer any of its properties or assets to the Issuer.

(b) However, the restrictions set forth in Section 4.15(a) will not apply to encumbrances or restrictions existing under or by reason of:

(1) agreements, including, without limitation, those governing Existing Indebtedness and the New Term Loan Facility, as in effect on the Issue Date and any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of those agreements; *provided* that the amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are not materially more restrictive, taken as a whole, with respect to such dividend and other payment restrictions than those contained in those agreements on the Issue Date;

(2) this Indenture, the Notes, any Additional Notes and the related Guarantees and the Intercreditor Agreement or any Additional Intercreditor Agreement;

- (3) applicable law, rule, regulation or order or governmental license, permit or concession;
- (4) any instrument governing Indebtedness or Equity Interests of a Person acquired by the Issuer or any of its Subsidiaries as in effect at the time of such acquisition, which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person, or the property or assets of the Person, so acquired; *provided* that, in the case of Indebtedness, such Indebtedness was permitted by the terms of this Indenture to be incurred;
- (5) Permitted Refinancing Indebtedness; *provided* that the restrictions contained in the agreements governing such Permitted Refinancing Indebtedness are not materially more restrictive, taken as a whole, than those contained in the agreements governing the Indebtedness being refinanced;
- (6) Liens and agreements related thereto that were permitted to be incurred under Section 4.12 hereof that limit the right of the debtor to dispose of the assets subject to such Liens;
- (7) provisions contained in agreements governing Indebtedness of the Issuer or Subsidiary incurred subsequent to the Issue Date pursuant to Section 4.10 (i) in respect of the subordination provisions, if any, of such Indebtedness, (ii) if the encumbrances and restrictions contained in any such Indebtedness taken as a whole are not materially less favorable to the holders of the Notes than the encumbrances and restrictions contained in this Indenture or that may be contained in the Intercreditor Agreement or in any agreement governing Indebtedness in accordance with this Section 4.15 or (iii) if such encumbrance or restriction is customary in comparable financings (as determined in good faith by the Issuer) and the Issuer determines in good faith that such encumbrance or restriction shall not materially adversely affect the ability of the Issuer and its Subsidiaries, taken as a whole, to make principal or interest payments on the Notes;
- (8) customary provisions restricting assignments, subletting or other similar transfers in contracts, licenses and other agreements (including, without limitation, leases and agreements relating to intellectual property) entered into in the ordinary course of a Permitted Business;
- (9) any agreement for the sale or other disposition of a Subsidiary or an asset that restricts distributions by that Subsidiary or transfers of such asset pending the sale or other disposition;
- (10) provisions limiting the disposition or distribution of assets or property (including Capital Stock of any Person in which the Issuer has an investment) in joint venture agreements, stockholder agreements, partnership agreements, limited liability company operating agreements, asset sale agreements, sale-leaseback agreements, stock sale agreements and other similar agreements, which limitation is applicable in all material respects only to the assets or property that are the subject of such agreements;

(11) restrictions on cash or other deposits or net worth imposed under contracts entered into in the ordinary course of a Permitted Business; and

(12) customary provisions restricting the disposition of real property interests set forth in any easements or other similar agreements or arrangements of the Issuer or any Subsidiary.

SECTION 4.16. Release of Guarantees.

(a) The Guarantee of a Guarantor shall automatically and unconditionally (without any further action on the part of any Person) be released:

(1) in connection with any sale or other transfer of all or substantially all of the assets of that Guarantor (including by way of merger, consolidation or amalgamation) to a Person that is not (either before or after giving effect to such transaction) the Issuer or a Subsidiary of the Issuer, if the sale or other disposition does not violate any applicable provisions of this Indenture;

(2) in connection with any sale or other transfer of a majority of the Capital Stock of that Guarantor to a Person that is not (either before or after giving effect to such transaction) the Issuer or a Subsidiary of the Issuer, if (x) such Guarantor would no longer constitute a "Subsidiary" under this Indenture and (y) the sale or other disposition does not violate any applicable provisions of this Indenture;

(3) substantially concurrently with the substitution of Vessels of another Subsidiary for all of the Mortgaged Vessels of that Guarantor in accordance with Section 11.09;

(4) in the case of a Subsidiary that has voluntarily issued a Guarantee, upon notice to the Trustee by the Issuer of the designation of such Guarantor as a non-Guarantor Subsidiary if all transactions entered into by such Subsidiary while a Guarantor would be permitted under this Indenture at the time its Guarantee is released (and for such purpose all such transactions shall be deemed to have been entered into at the time of such release);

(5) upon Legal Defeasance or Covenant Defeasance or satisfaction and discharge of the Notes pursuant to Section 8.01, Section 8.03 and Section 8.04; and

(6) in accordance with an enforcement action pursuant to the provisions of the Intercreditor Agreement and any Additional Intercreditor Agreement.

(b) Upon receipt by the Trustee and the Security Agent of an Officer's Certificate and an Opinion of Counsel each stating that all conditions precedent provided in this Indenture, the Intercreditor Agreement and the Security Documents relating to the release of the

Guarantee have been complied with, the Trustee and the Security Agent shall take all actions, reasonably requested by such Guarantor, including the granting of releases or waivers under the Intercreditor Agreement or any Additional Intercreditor Agreement, that may be necessary to evidence any release of a Guarantee in accordance with these provisions, subject to customary protections and indemnifications. Each of the releases set forth in Section 4.16(a) above shall be effected without the consent of the Holders of the Notes or any other action or consent on the part of the Trustee or the Security Agent. For the avoidance of doubt, the foregoing provisions shall not permit the Security Agent to release or grant any waivers or otherwise take any action with respect to any guarantee given by the Issuer or any Guarantor to any Secured Party other than the Trustee and the Holders (and any such release, waiver or action shall be governed by the relevant Debt Documents applicable to such Secured Parties, the Intercreditor Agreement and any Additional Intercreditor Agreement).

SECTION 4.17. Reports to Holders.

(a) Whether or not the Issuer is then subject to Section 13(a) or 15(d) of the Exchange Act, the Issuer will furnish to the Trustee and the Holders, so long as the Notes are outstanding:

(1) within 60 days after the end of each of the first three fiscal quarters in each fiscal year, quarterly reports on Form 6-K (or any successor form) containing unaudited financial statements (including a balance sheet and statement of income, changes in stockholders' equity and cash flow) and a management's discussion and analysis of financial condition and results of operations (or equivalent disclosure) for and as of the end of such fiscal quarter (with comparable financial statements for the corresponding fiscal quarter of the immediately preceding fiscal year);

(2) within 120 days after the end of each fiscal year, an annual report on Form 20-F (or any successor form) containing the information required to be contained therein for such fiscal year; and

(3) at or prior to such times as would be required to be filed or furnished to the Commission if the Issuer was then a "foreign private issuer" subject to Section 13(a) or 15(d) of the Exchange Act, all such other reports and information that the Issuer would have been required pursuant thereto;

provided, however, that to the extent that the Issuer ceases to qualify as a "foreign private issuer" within the meaning of the Exchange Act, whether or not the Issuer is then subject to Section 13(a) or 15(d) of the Exchange Act, the Issuer will furnish to the Trustee and the Holders, so long as any Notes are outstanding, within 30 days of the respective dates on which the Issuer would be required to file such documents with the Commission if it was required to file such documents under the Exchange Act, all reports and other information that would be required to be filed with (or furnished to) the Commission pursuant to Section 13(a) or 15(d) of the Exchange Act.

(b) The Issuer will also make available to the Exchange copies of all reports required by Section 4.17(a)(1) through (3) above, if and so long as the Notes are listed on the Official List of the Exchange and the rules and regulations of the Exchange so require.

(c) In addition, whether or not required by the rules and regulations of the Commission, the Issuer will electronically file or furnish, as the case may be, a copy of all such information and reports that it would be required to file as a foreign private issuer with the Commission for public availability within the time periods specified above (unless the Commission will not accept such a filing) and make such information available to securities analysts and prospective investors upon request. In addition, the Issuer agrees that, for so long as any Notes remain outstanding, it shall furnish to the Holders and to prospective investors, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act.

(d) Notwithstanding anything to the contrary in the foregoing provisions of this Section 4.17, the Issuer will be deemed to have furnished such reports referred to in Section 4.17(a) to the Trustee and the Holders if the Issuer has submitted such reports with the Commission via the EDGAR filing system and such reports are publicly available. Furthermore, notwithstanding anything herein to the contrary, the Issuer will not be deemed to have failed to comply with any of its obligations hereunder for purposes of Section 6.01 (3) until 120 days after the date any report hereunder is due, and any failure to comply with this Section 4.17 shall automatically be cured when the Issuer provides all required reports to the Holders.

(e) Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Issuer or the Guarantors' compliance with any of their covenants thereunder (as to which the Trustee is entitled to rely exclusively on Officer's Certificates).

SECTION 4.18. Guarantor Ownership.

The Issuer shall ensure that each Vessel Guarantor and each Subsidiary that owns a Mortgaged Vessel remains a direct Wholly Owned Subsidiary of the Issuer, *provided* that the Issuer may sell or dispose of all of the Equity Interests of a Vessel Guarantor or such Subsidiary in one or more transactions that comply with Section 4.13 or Section 5.01.

SECTION 4.19. [Reserved].

SECTION 4.20. Payment of Additional Amounts.

(a) All payments made by or on behalf of the Issuer under or with respect to the Notes or by a Guarantor under or with respect to its Guarantee will be made free and clear of and without withholding or deduction for, or on account of, any present or future Taxes imposed or levied by or on behalf of any Taxing Authority in (1) any jurisdiction in which the Issuer or any Guarantor is organized, engaged in business for tax purposes or is otherwise resident for tax

purposes or any political subdivision thereof or therein or (2) any jurisdiction from or through which payment is made by or on behalf of the Issuer or any Guarantor or any political subdivision thereof or therein (each, a “*Relevant Taxing Jurisdiction*”), unless the Issuer or Guarantor is required to withhold or deduct Taxes by law or by the official interpretation or administration thereof.

(b) If the Issuer or any Guarantor is required to withhold or deduct any amount for or on account of Taxes imposed by a Relevant Taxing Jurisdiction, from any payment made under or with respect to the Notes or the Guarantee of such Guarantor including, without limitation, payments of principal, redemption price, purchase price, interest or premium, the Issuer or the relevant Guarantor, as applicable, shall pay such additional amounts (“*Additional Amounts*”) as may be necessary so that the net amount received by each Holder of Notes (including *Additional Amounts*) after such withholding or deduction of Taxes shall equal the amount the Holder would have received if such Taxes had not been withheld or deducted; *provided, however*, that no *Additional Amounts* shall be payable with respect to any Tax:

(1) that would not have been imposed, payable or due but for the existence of any present or former connection between the Holder (or the beneficial owner of, or person ultimately entitled to obtain an interest in, such Notes) and the Relevant Taxing Jurisdiction (including being a citizen, resident or national of, or carrying on a business or maintaining a permanent establishment in, or being physically present in, the Relevant Taxing Jurisdiction) other than the mere holding of the Notes or enforcement of rights under such Note or under a Guarantee or the receipt of payments in respect of such Note or a Guarantee;

(2) that would not have been imposed, payable or due but for the failure to satisfy any certification, identification or other reporting requirements whether imposed by statute, treaty, regulation or administrative practice as a precondition to exemption from, or reduction in the rate of withholding of, Taxes imposed by the Relevant Taxing Jurisdiction (including a certification that the Holder or beneficial owner is not resident in the Relevant Taxing Jurisdiction), but in each case, only to the extent the Holder or beneficial owner is legally eligible to provide such certification or documentation; *provided, however*, that the Issuer has delivered a written request to the Holder to comply with such requirements at least 30 days prior to the date by which such compliance is required;

(3) that would not have been imposed, payable or due if the presentation of Notes (where presentation is required) for payment has occurred within 30 days after the date such payment was due and payable or was duly provided for, whichever is later (except to the extent the Holder would have been entitled to *Additional Amounts* if the Note had been presented on the last day of such 30-day period);

(4) that is an estate, inheritance, gift, sales, transfer or personal property Tax;

(5) that is imposed with respect to a Note pursuant to Sections 1471 to 1474 of the U.S. Internal Revenue Code of 1986, as amended as of the Issue Date (and any amended or successor version that is substantially comparable), any current or future regulations or agreements thereunder, official interpretations thereof or any law implementing an intergovernmental agreement relating thereto; or

(6) as a result of a combination of the foregoing clauses (1) through (5).

(c) In addition, Additional Amounts shall not be paid with respect to a payment on any Notes to a Holder that is not the beneficial owner of such Notes to the extent that the beneficial owner thereof would not have been entitled to the payment of such Additional Amounts by reason of clauses (1), (2), (3), (4), (5) or (6) above had such beneficial owner been the Holder of such Notes. In addition, Additional Amounts will not be payable with respect to any Tax which is payable otherwise than by withholding from any payment under or in respect of the Notes or any Guarantee.

(d) Whenever in this Indenture or in the Notes there is mentioned, in any context, the payment of amounts based on the principal amount of the Notes or any Guarantee or of principal, interest or of any other amount payable under or with respect to any of the Notes or any Guarantee, such mention shall be deemed to include mention of the payment of Additional Amounts to the extent that, in such context, Additional Amounts are, were or would be payable in respect thereof.

(e) The Issuer or relevant Guarantor will (i) make any required withholding or deduction and (ii) remit the full amount deducted or withheld to the Relevant Taxing Jurisdiction in accordance with applicable law. The Issuer or relevant Guarantor will provide documentation reasonably satisfactory to the Trustee and the Paying Agent evidencing the payment of any Taxes so deducted or withheld from each Relevant Taxing Jurisdiction imposing such Taxes, as soon as reasonably practicable to the Trustee and the Paying Agent. Such documentation shall be made available to the Holders by the Trustee and the Paying Agent upon reasonable request and will be made available at the offices of the Trustee and the Paying Agent.

(f) The Issuer and the Guarantors shall pay and indemnify the Trustee and the Paying Agent, the Security Agent and the Holders for any present or future stamp, issue, registration, court or documentary taxes, or any other excise or property taxes, charges or levies (including penalties, interest and any other reasonable expenses thereto) which arise in any Relevant Taxing Jurisdiction from the execution, delivery, issuance or registration of the Notes or any other document or instrument referred to therein, or the receipt of any payments with respect to or enforcement of, the Notes or any Guarantee.

(g) If the Issuer or relevant Guarantor is obligated to pay Additional Amounts under or with respect to any payment made on any Note or Guarantee, the Issuer or relevant Guarantor shall deliver to the Trustee and the Paying Agent, at least 30 days prior to the date of such payment, an Officer's Certificate stating the fact that Additional Amounts will be payable and the amount estimated to be so payable and such other information necessary to enable the

Paying Agent to pay Additional Amounts to Holders on the relevant payment date (unless such obligation to pay Additional Amounts arises less than 30 days prior to the relevant payment date, in which case the Issuer or relevant Guarantor may deliver such Officer's Certificate as promptly as practicable thereafter). The Trustee and the Paying Agent shall be entitled to rely solely on such Officer's Certificate as conclusive proof that such payments are necessary.

(h) Notwithstanding anything to the contrary contained in this Indenture, the Issuer and the Guarantors may, to the extent required to do so by law, deduct or withhold income or similar taxes imposed by the United States of America from any payments under this Indenture; *provided* that the foregoing shall not limit the obligation of the Issuer and the Guarantors to pay Additional Amounts as set forth in this Section 4.20.

(i) The provisions of this Section 4.20 shall survive any termination, defeasance or discharge of this Indenture and will apply *mutatis mutandis* to any jurisdiction in which any successor Person to the Issuer or any Guarantor is organized, engaged in business for tax purposes, resident for tax purposes and any jurisdiction from or through which such person makes any payment on the Note or Guarantee and or any political subdivision or taxing authority or agency thereof or therein.

SECTION 4.21. Total Loss Event.

(a) In respect of any Total Loss Event that occurs at any time with respect to a Mortgaged Vessel (the Mortgaged Vessel suffering such Total Loss Event being the "Lost Mortgaged Vessel"), within 365 days (subject to extension as provided herein) after the receipt of any Total Loss Event Proceeds, the Issuer or the applicable Subsidiary shall:

(1) apply an amount equal to such Total Loss Event Proceeds to:

(A) repay or prepay obligations under the New Term Loan Facility or any other Indebtedness to the extent that such obligations rank super-senior to the Notes and any additional Notes under the Intercreditor Agreement;

(B) acquire one or more Vessels and Related Assets thereof and make such Vessels and Related Assets subject to a first-priority Lien in accordance with Section 11.09; or

(C) (I) redeem or repurchase Notes pursuant to the provisions in Section 3.07, a Total Loss Event Offer described below, open market purchases and/or privately negotiated transactions or otherwise or (II) repay or prepay any other Indebtedness that ranks *pari passu* with the Notes or the Guarantees;

(2) enter into a binding commitment to apply all or part of the Total Loss Event Proceeds pursuant to clause (B) above or make a determination in good faith to potentially apply all or a portion of such Total Loss Event Proceeds towards the exercise of an outstanding Vessel Purchase Option Contract, *provided* that such binding

commitment or determination shall be treated as a permitted application of the Net Proceeds from the date thereof until the earlier of (x) the date on which such acquisition or expenditure is consummated, (y) the date such Vessel Purchase Option Contract terminates or expires and (z) the 365th day following the expiration of the aforementioned 365-day period; and/or

- (3) any combination of the foregoing.

provided that during such 365-day period (or any extension thereof pursuant to clause (2) above) and pending the final application of any Total Loss Event Proceeds in accordance with this Section 4.21(a) or Section 4.21(c), such Total Loss Event Proceeds shall be deposited in a Collateral Account charged with a first priority Lien in favor of the Holders and constitute Collateral, subject to release in accordance with the provisions of the Intercreditor Agreement.

(b) Notwithstanding the foregoing, the Issuer may elect to repay or redeem Indebtedness or make an acquisition or otherwise apply cash in accordance with clauses (1), (2) or (3) of Section 4.21(a) above prior to receiving the Total Loss Event Proceeds attributable to any Total Loss Event and deem the amount of any such repayment, investment, acquisition or cash payment as an application such Total Loss Event Proceeds pursuant to and in accordance with such clauses.

(c) Any Total Loss Event Proceeds that are not applied or invested as provided in Section 4.21(a) will constitute Excess Loss Proceeds (as defined herein). When the aggregate amount of Excess Loss Proceeds exceeds \$25.0 million, the Issuer will make an offer (a "*Total Loss Event Offer*") to all Holders to purchase the maximum principal amount of Notes that may be required to be purchased out of the Excess Loss Proceeds (the "*Excess Loss Proceeds Payment Amount*"). The offer price for the Notes in any Total Loss Event Offer will be equal to 100% of principal amount of the Notes plus accrued and unpaid interest thereon, if any, to the date of purchase (the "*Total Loss Event Offered Price*"), and shall be payable in cash. If any Total Loss Event Proceeds remain after consummation of a Total Loss Event Offer, those Excess Loss Proceeds may be used for any purpose not otherwise prohibited by this Indenture. If the aggregate principal amount of Notes tendered into such Total Loss Event Offer exceeds the Excess Loss Proceeds Payment Amount, the tender agent for such Total Loss Event Offer shall select the Notes to be purchased (i) in accordance with applicable rules and procedures of DTC and any relevant securities exchange or (ii) if there are no such requirements of DTC or any relevant securities exchange or if the Notes are represented by global or definitive certificates, on a *pro rata* basis or by lot (as directed by the Issuer) from among the Notes tendered for repurchase. Upon completion of each Total Loss Event Offer, the amount of Excess Loss Proceeds will be reset at zero (regardless of whether there are any remaining Total Loss Event Proceeds upon such completion). The Issuer may elect to satisfy its obligations to make a Total Loss Event Offer prior to expiration of the relevant period or with respect to Excess Loss Proceeds of \$25.0 million or less.

(d) Notwithstanding the foregoing, the Issuer may, at its option, combine any Total Loss Event Offer pursuant to this Section 4.21, any Collateral Sale Offer pursuant to Section 4.13 and/or any Annual Mandatory Offer pursuant to Section 4.23 it may become obligated to make.

(e) The Issuer shall comply with the requirements of any securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with each repurchase of Notes pursuant to a Total Loss Event Offer. To the extent that the provisions of any securities laws or regulations conflict with the Total Loss Event provisions of this Indenture, the Issuer shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations under the Total Loss Event provisions of this Indenture by virtue of such compliance.

(f) Upon the commencement of a Total Loss Event Offer, the Issuer shall deliver electronically or send, or cause to be delivered electronically or sent, by first class mail, a notice to the Trustee and to each Holder at its registered address. The notice shall contain all instructions and materials necessary to enable such holder to tender Notes pursuant to the Total Loss Event Offer. Any Total Loss Event Offer shall be made to all Holders. The notice, which shall govern the terms of the Total Loss Event Offer, shall state:

(1) that the Total Loss Event Offer is being made pursuant to this Section 4.21 and that, to the extent lawful, all Notes tendered and not withdrawn shall be accepted for payment (unless prorated);

(2) the Excess Loss Proceeds Payment Amount, the Total Loss Event Offered Price, and the date on which Notes tendered and accepted for payment shall be purchased, which date shall be at least 10 days and not later than 60 days from the date such notice is mailed or delivered electronically (the “*Total Loss Event Payment Date*”);

(3) that any Notes not tendered or accepted for payment shall continue to accrue interest in accordance with the terms thereof;

(4) that, unless the Issuer defaults in making such payment, any Notes accepted for payment pursuant to the Total Loss Event Offer shall cease to accrue interest on and after the Total Loss Event Payment Date;

(5) that Holders electing to have any Notes purchased pursuant to any Total Loss Event Offer shall be required to surrender the Notes, with the form entitled “Option of Holder to Elect Purchase” on the reverse of the Note completed, or transfer by book-entry transfer, to the Issuer, a depository, if appointed by the Issuer, or the Paying Agent at the address specified in the notice at least three Business Days before the Total Loss Event Payment Date;

(6) that Holders shall be entitled to withdraw their election if the Issuer, the Depository or the Paying Agent, or another entity designated for such purpose as the case may be, receives, not later than two Business Days prior to the Total Loss Event Payment Date, a notice setting forth the name of the holder of the Notes, the principal amount of the Note the Holder delivered for purchase and a statement that such Holder is withdrawing its election to have such Note purchased;

(7) that if the aggregate principal amount of Notes tendered into such Total Loss Event Offer exceeds the amount of Excess Loss Proceeds Payment Amount, the tender agent for such Total Loss Event Offer shall select the Notes to be purchased (i) in accordance with applicable rules and procedures of DTC and any relevant securities exchange or (ii) if there are no such requirements of DTC or any relevant securities exchange or if the Notes are represented by global or definitive certificates on a *pro rata* basis (with such adjustments as may be deemed appropriate by the Issuer so that only Notes in denominations of \$200,000 or integral multiples of \$1,000 in excess thereof, shall be purchased) or by lot (as directed by the Issuer) from among the Notes tendered for repurchase; and

(8) that Holders whose Notes were purchased only in part shall be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered (or transferred by book-entry).

(g) On the Total Loss Event Payment Date, the Issuer shall, to the extent lawful: (1) accept for payment all Notes or portions thereof properly tendered pursuant to the Total Loss Event Offer, subject to *pro ration* in accordance with Section 4.21(f)(7) if the aggregate Notes tendered exceed the Excess Loss Proceeds Payment Amount allocable to the Notes; (2) deposit with the tender agent for such Total Loss Event Offer, U.S. Legal Tender equal to the lesser of the Excess Loss Proceeds Payment Amount allocable to the Notes and the amount sufficient to pay the Total Loss Event Offered Price in respect of all Notes or portions thereof so tendered; and (3) deliver or cause to be delivered to the Trustee the Notes so accepted together with an Officer's Certificate stating the aggregate principal amount of Notes or portions thereof being repurchased by the Issuer. The Issuer shall inform the Holders of the results of the Total Loss Event Offer on or as soon as practicable after the Total Loss Event Payment Date.

(h) The tender agent for such Total Loss Event Offer, shall promptly mail or pay by wire transfer to each Holder whose Notes have been properly tendered the Total Loss Event Offered Price for such Notes, and the Trustee shall promptly authenticate pursuant to an Authentication Order and mail (or cause to be transferred by book-entry) to each Holder a new Note equal in principal amount to any unredeemed portion of the Notes surrendered, if any; *provided* that each such new Note shall be in principal amount of \$200,000 or an integral multiple of \$1,000 in excess thereof. So long as no payment Default or Event of Default has occurred and is continuing, and to the extent not applied to make payments on the Notes, tender agent for such Total Loss Event Offer, shall return to the Issuer any cash that remains unclaimed, together with interest, if any, thereon, held by it for the payment of the Total Loss Event Offered Price. However, if the Total Loss Event Payment Date is on or after a Record Date and on or before the related Interest Payment Date, any accrued and unpaid interest shall be paid to the Person in whose name a Note is registered at the close of business on such Record Date, and no additional interest shall be payable to Holders who tender Notes pursuant to a Total Loss Event Offer.

(i) The Issuer shall comply with the requirements of any securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with each repurchase of Notes pursuant to a Total Loss Event Offer. To the extent that the provisions of any securities laws or regulations conflict with this Section 4.21, the Issuer shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations under this Section 4.21 by virtue of such compliance.

SECTION 4.22. Maintenance of Listing.

The Issuer shall use all of its commercially reasonable efforts to list and maintain the listing of the Notes on the Official List of the Exchange and the permission to deal in the Notes thereon for so long as such Notes are outstanding; *provided* that if at any time the Issuer determines that it is unable to list or if maintenance of such listing becomes unduly onerous, it will obtain, prior to the delisting of the Notes from the Official List of the Exchange, and thereafter use its commercially reasonable efforts to maintain, a listing of such Notes on such other “recognized stock exchange” as defined in Section 1005 of the Income Tax Act 2007 of the United Kingdom.

SECTION 4.23. Annual Mandatory Offer and Amortization

(a) No later than the date that is 30 days following each Annual Mandatory Payment Deadline (as defined below), the Issuer must (i) have repaid Indebtedness under the New Term Loan Facility and/or (ii) redeemed or repurchased Notes, in an aggregate principal amount equal to the Total Repayment Amount (less any *de minimis* amounts excluded under each of clauses (3) and (4) below), *provided* that:

(1) the Issuer shall first comply with any principal amortization requirements under the New Term Loan Facility; *provided* that the Issuer may make an offer to repurchase (but not consummate any repurchases) pursuant to an Annual Mandatory Offer (as defined below) prior to the amortization on the applicable amortization payment date under the New Term Loan Facility;

(2) to the extent Indebtedness under the Term Loan Facility remains outstanding, the Issuer shall make an offer (an “*Annual Mandatory Offer*”) to all Holders to repurchase in cash (the “*Annual Mandatory Offer Payment*”) in an aggregate principal amount of Notes outstanding equal to the Annual Mandatory Offer Amount (or, to the extent less than the Annual Mandatory Offer Amount in aggregate principal amount of Notes are then outstanding, all such Notes outstanding), at a price equal to 102% of the aggregate principal amount of Notes repurchased *plus* accrued and unpaid interest, if any, on the Notes repurchased, to the date of purchase, subject to the rights of Holders on the relevant record date to receive interest due on the relevant interest payment date, and on the terms set forth in this Indenture (the “*Mandatory Price*”);

(3) to the extent that the principal amount of Notes so validly tendered and not properly withdrawn pursuant to an Annual Mandatory Offer is less than the Annual Mandatory Offer Amount by an amount that is equal to or greater than

a *de minimis* amount of \$500,000 (the “*Unaccepted Amount*”), the Issuer shall be required to repay Indebtedness under the New Term Loan Facility to ensure that the aggregate principal amount of Notes repurchased and New Term Loan Facility repaid shall be at least equal to the Total Repayment Amount; and

(4) to the extent that no Indebtedness under the Term Loan Facility is outstanding or the Unaccepted Amounts exceed the amount of Indebtedness then-outstanding under the New Term Loan Facility, any such excess in an amount equal to or greater than a *de minimis* amount of \$500,000 must be applied by the Issuer to redeem an aggregate principal amount of Notes at a price equal to the Mandatory Price to ensure that the aggregate principal amount of Notes redeemed and New Term Loan Facility repaid shall be at least equal to the Total Repayment Amount.

(b) In this Section 4.23, (i) “*Annual Mandatory Payment Deadline*” means November 15, 2018, 2019, 2020 and 2021, (ii) the “*Annual Mandatory Offer Amount*” shall mean the lesser of (a) the Total Repayment Amount for the relevant period *minus* the aggregate principal amount *per annum* that is required to be prepaid amortized under the New Term Loan Facility for that year and (b) the aggregate principal amount then-outstanding under the New Term Loan Facility and (iii) the “*Total Repayment Amount*” shall mean (a) \$40.0 million with respect to the first, second and third Annual Mandatory Payment Deadline and (b) \$35.0 million with respect to the fourth Annual Mandatory Payment Deadline.

(c) In connection with the Annual Mandatory Offer, the Issuer shall deliver electronically or mail a notice to each holder (with a copy to the Trustee and the tender agent for such Annual Mandatory Offer) offering to repurchase Notes on the payment date specified in the notice (the “*Annual Mandatory Offer Payment Date*”), which date shall be no earlier than 10 days and no later than 60 days from the date such notice is delivered electronically or mailed, other than as may be required by law, pursuant to the procedures required by this Indenture and described in such notice.

(d) The Issuer shall comply with the requirements of any securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with the repurchase of the Notes. To the extent that the provisions of any securities laws or regulations conflict with the Annual Mandatory Offer provisions of this Indenture, the Issuer shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations under the Annual Mandatory Offer provisions of this Indenture by virtue of such compliance.

(e) On the Annual Mandatory Offer Payment Date, the Issuer shall, to the extent lawful:

(1) accept for payment all Notes or portions of Notes properly tendered pursuant to the Annual Mandatory Offer, subject to *pro ration* in accordance with Section 4.23(i) if the aggregate Notes tendered exceed the Annual Mandatory Offer Amount;

(2) deposit with the tender agent for such Annual Mandatory Offer an amount equal to the Annual Mandatory Offer Payment in respect of all Notes or portions of Notes properly tendered; and

(3) deliver or cause to be delivered to the Trustee the Notes properly accepted together with an Officer's Certificate stating the aggregate principal amount of Notes or portions of Notes being purchased by the Issuer.

(f) The tender agent for such Annual Mandatory Offer shall promptly mail or pay by wire transfer to each holder of Notes properly tendered the Annual Mandatory Offer Payment for such Notes, and the Trustee shall promptly authenticate and mail (or cause to be transferred by book entry) to each holder a new Note equal in principal amount to any unpurchased portion of the Notes surrendered, if any; *provided* that each new Note shall be in a principal amount of \$200,000 or an integral multiple of \$1,000 in excess thereof.

(g) The Issuer shall inform the holders of the Notes, the Trustee and the tender agent for such Annual Mandatory Offer of the results of the Annual Mandatory Offer on or as soon as practicable after the Annual Mandatory Offer Payment Date.

(h) The Issuer shall not be required to make an Annual Mandatory Offer if a third party makes the Annual Mandatory Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Indenture applicable to an Annual Mandatory Offer made by the Issuer and purchases all Notes properly tendered and not withdrawn under the Annual Mandatory Offer, or notice of redemption has been given in respect of all of the Notes then outstanding pursuant to this Indenture in compliance with Section 3.03 unless and until there is a default in payment of the applicable redemption price.

(i) Notwithstanding the foregoing, the Issuer may, at its option, combine any Annual Mandatory Offer pursuant to this Section 4.23, Collateral Sale Offer pursuant to Section 4.13 and/or any Total Loss Event Offer pursuant to Section 4.21 it may become obligated to make.

(j) If the aggregate principal amount of Notes surrendered by Holders thereof in an Annual Mandatory Offer exceeds the Annual Mandatory Offer Amount, the tender agent for such Annual Mandatory Offer shall select the Notes to be purchased (i) in accordance with applicable rules and procedures of DTC and any relevant securities exchange or (ii) if there are no such requirements of DTC or any relevant securities exchange or if the Notes are represented by global or definitive certificates, on a pro rata basis (with such adjustments as may be deemed appropriate by the Issuer so that only Notes in denominations of \$200,000 or integral multiples of \$1,000 in excess thereof, shall be purchased) or by lot (as directed by the Issuer) from among the Notes tendered for repurchase.

SECTION 4.24. Vessel Covenants

(a) The Issuer will at all times, and will cause the Vessel Guarantors at all times to, (i) maintain the classification of each Mortgaged Vessel, (ii) keep each Mortgaged Vessel in good and safe condition and repair, consistent with prudent ownership and industry

standards and (iii) procure that each Mortgaged Vessel be managed by a Permitted Manager. The covenants in this Section 4.24(a) shall be deemed complied with as a consequence of the Vessel Guarantors performing their corresponding obligations under the deeds of assignment, deeds of covenant and other security documents.

(b) The Issuer will at all times, and will cause the Vessel Guarantors at all times to, maintain the flag and registry of a Mortgaged Vessel in a Permitted Flag Jurisdiction. Notwithstanding the foregoing, the Issuer or a Vessel Guarantor may transfer or change the flag of any of its Mortgaged Vessels to the flag of a Permitted Flag Jurisdiction and in connection therewith the Security Agent shall release the existing ship mortgage and related Security Documents to which any Mortgaged Vessel is subject in connection with the transfer or change of the flag of such Mortgaged Vessel to another Permitted Flag Jurisdiction if (i) the owner of the Mortgaged Vessel has executed (A) a new ship mortgage (granting the Security Agent a security interest in such Mortgaged Vessel subject only to Permitted Liens) and (B) the related Security Documents with respect to such Mortgaged Vessel, dated the date such Mortgaged Vessel shall be released from the existing ship mortgage and related Security Documents to which it is subject, which ship mortgage and related Security Documents shall be in appropriate form for recording or registration in the appropriate governmental offices of the Permitted Flag Jurisdiction under which it is being reflagged and the appropriate governmental offices in the jurisdiction of incorporation and/or domicile of the applicable Issuer or Vessel Guarantor if required by applicable law in order to perfect the security interests therein created, as to which the Trustee and the Security Agent will be entitled to rely on an Opinion of Counsel to the Issuer with respect thereto; and (ii) the Vessel Guarantor has made all necessary arrangements for recording the ship mortgage referred to in clause (i) above in the appropriate registry office of the Permitted Flag Jurisdiction under which the Mortgaged Vessel is being reflagged as soon as reasonably practicable and to make any other filing necessary to perfect the security therein. In addition to the Opinion of Counsel referenced in (i)(B) above, prior to the Security Agent providing any such release, it shall be entitled to receive and rely exclusively on an Officer's Certificate and an Opinion of Counsel each stating that such release is authorized or permitted by the terms of this Indenture, the Intercreditor Agreement, any Additional Intercreditor Agreement and the Security Documents, and that all conditions precedent provided in this Indenture, the Intercreditor Agreement, any such Additional Intercreditor Agreement and the Security Documents relating to the execution and delivery of such release have been complied with.

SECTION 4.25. Quiet Enjoyment Letter

The Trustee and the Security Agent shall be authorized and required to issue a quiet enjoyment letter, if so required by any Charter counterparty, substantially in the form provided in the Intercreditor Agreement or in a form that is not materially less favorable to the holders of the Notes as determined in good faith by the Issuer and certified by the Issuer to the Trustee and the Security Agent in an Officer's Certificate.

SECTION 4.26. Charters

(a) Each Vessel Guarantor shall (i) perform and observe in all material respects all of the covenants and agreements applicable to it contained in any Charter, (ii) take all

reasonable actions to prevent the termination of any such Charter other than through the passage of time or through amendments negotiated on arm's length terms and (iii) take any reasonable action as may be reasonably necessary to promptly enforce its rights and to collect any and all sums due to it under such Charter, unless where failure to do so will not materially impact the ability of the Issuer and the Guarantors (taken as a whole) to fulfil their obligations under the Notes Documents.

(b) The Issuer and the Vessel Guarantors shall not (i) consent or agree to any waiver or amendment of any Charter that would have a material adverse effect on their ability to fulfil their obligations under the Notes Documents or (ii) agree to or permit the assignment of any rights or the delegation of any obligations under the Charter (unless such assignment or delegation is permitted under the terms of the Charter). For the avoidance of doubt, the foregoing restrictions on amendments shall not apply to any extension, "amend and extend" or modification or series of modifications of any of the Charters on arm's-length terms available at the date of such amendment, extension and/or modification, assessed on a risk-adjusted basis.

SECTION 4.27. Insurance

(a) Each Vessel Guarantor shall maintain with reputable insurance companies, funds or underwriters adequate insurance or captive arrangements with respect to its properties and business against such liabilities, casualties and contingencies and of such types and in such amounts as are consistent with prudent business practice in its relevant jurisdiction and industry.

(b) The Mortgaged Vessels shall be adequately insured against such risks and in such amounts as per industry standards and otherwise reasonably required by and placed or entered with such reputable insurers, brokers or protection and indemnity (P&I) clubs on an agreed value basis, including without limitation (i) war risk (if relevant in respect of the Vessel's voyage), (ii) hull and machinery (and, if relevant, hull interest and/or freight interest), (iii) third party liability insurance in accordance with industry standards and (iv) any applicable additional insurance required under any law or the relevant charter contract, but for the avoidance of doubt not including loss of hire.

(a) Notwithstanding the foregoing, this Section 4.27 shall be deemed complied with so long as the applicable Vessel Guarantor complies with the deed of assignment with respect to its Mortgaged Vessel.

ARTICLE FIVE SUCCESSOR CORPORATION

SECTION 5.01. Merger, Consolidation or Sale of Assets

(a) The Issuer may not, directly or indirectly: (1) consolidate, amalgamate or merge with or into another Person (whether or not the Issuer is the surviving Person); or (2) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets

of the Issuer and its Subsidiaries taken as a whole, in one or more related transactions, to another Person, unless:

(1) either: (a) the Issuer is the surviving Person and the laws of all relevant jurisdictions recognize that the Issuer as surviving Person automatically and without any action on the part of any Person is bound by all the obligations of the Issuer under the Notes, this Indenture, the Intercreditor Agreement, any Additional Intercreditor Agreements and the Security Documents (as applicable); or (b) the Person formed by or surviving any such consolidation, amalgamation or merger (if other than the Issuer) or to which such sale, assignment, transfer, conveyance or other disposition has been made (x) is a corporation, limited liability company, trust or limited partnership organized or existing under the laws of an Eligible Jurisdiction, and (y) expressly assumes all the obligations of the Issuer under the Notes, this Indenture, the Intercreditor Agreement, any Additional Intercreditor Agreements and the Security Documents (as applicable);

(2) immediately after giving effect to such transaction, no Default or Event of Default exists; and

(3) either (i) the ratio of the principal amount of the Total Debt to the Adjusted EBITDA of the Issuer or the Person formed by or surviving any such consolidation, amalgamation or merger (if other than the Issuer), or to which such sale, assignment, transfer, conveyance or other disposition has been made, will, on the date of such transaction after giving *pro forma* effect thereto and to any related financing transactions as if the same had occurred at the beginning of the applicable four-quarter period, be no greater than such ratio was prior to such transaction or (ii) solely in the case of a transaction that is a consolidation, amalgamation or merger, at the time of entry into definitive documentation with respect to such transaction (A) the ratio of the principal amount of the Total Debt of such Person to the Fair Market Value of such Person does not exceed 80% or (B) such Person (i) has common or preferred equity publicly listed on an internationally recognized stock exchange and (ii) with respect to such publicly listed equity, has a market capitalization greater than \$500.0 million.

In addition, the Issuer may not, directly or indirectly, lease all or substantially all of its properties or assets, in one or more related transactions, to any other Person; *provided* that the foregoing shall not prohibit the chartering out of Vessels in the ordinary course of a Permitted Business.

For purposes of the foregoing, the transfer (by lease, assignment, sale or otherwise, in a single transaction or series of transactions) of all or substantially all of the properties or assets of one or more Subsidiaries, the Equity Interests of which constitute all or substantially all of the properties and assets of the Issuer, will be deemed to be the transfer of all or substantially all of the properties and assets of the Issuer.

(b) The Issuer will not permit any Guarantor to, directly or indirectly, consolidate, amalgamate, merge with or into or acquire another Person (whether or not the Issuer or such Guarantor is the surviving Person) unless:

(1) subject to Section 4.16, such Guarantor is the surviving Person and the laws of all relevant jurisdictions recognize that such Guarantor as surviving Person automatically and without any action on the part of any Person is bound by all the obligations of the relevant Guarantor under the Guarantee of such Guarantor, this Indenture, the Intercreditor Agreement, any Additional Intercreditor Agreements and the Security Documents (as applicable) or the Person formed by or surviving any such consolidation, amalgamation, merger or acquisition (if other than the Issuer or a Guarantor) and expressly assumes all the obligations of such Guarantor under the Guarantee of such Guarantor, this Indenture, the Intercreditor Agreement, any Additional Intercreditor Agreements and the Security Documents; and

(2) immediately after such transaction, no Default or Event of Default exists.

(c) This Section 5.01 shall not apply to any such consolidation, amalgamation or merger of, or any such sale, assignment, transfer, conveyance or other disposition of all or substantially all of the properties or assets of, the Issuer, a Guarantor or a Wholly Owned Subsidiary of such Person with or to an Affiliate solely for the purpose, and with the effect, of reorganizing the Issuer, a Guarantor or a Wholly Owned Subsidiary, as the case may be, in an Eligible Jurisdiction. In addition, nothing in this Section 5.01 shall prohibit any Subsidiary from consolidating or amalgamating with, merging with or into or conveying, transferring or leasing, in one transaction or a series of transactions, all or substantially all of its assets to the Issuer or another Subsidiary or reconstituting itself in another jurisdiction for the purpose of reflagging a vessel.

SECTION 5.02. Successor Corporation Substituted

(a) Upon any consolidation, amalgamation or merger, or any sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the assets of the Issuer or a Guarantor in accordance with Section 5.01, the successor Person formed by such consolidation or into or with which the Issuer or such Guarantor, as applicable, is merged or to which such sale, assignment, transfer, lease, conveyance or other disposition is made shall succeed to, and be substituted for (so that from and after the date of such consolidation, merger, sale, lease, conveyance or other disposition, the provisions of this Indenture referring to the Issuer or such Guarantor, as applicable, shall refer instead to the successor Person, as applicable, and not to the Issuer or such Guarantor, as applicable, and such predecessor Person will automatically be released and discharged from its obligations under this Indenture, the Notes and the Guarantees, as the case may be), and may exercise every right and power of the Issuer or such Guarantor, as applicable, under this Indenture with the same effect as if such successor Person, as applicable, had been named as the Issuer or a Guarantor, as applicable, herein; *provided* that the predecessor Issuer shall not be relieved from the obligation to pay the principal of and interest on the Notes or its obligations under Section 7.07 except in the case of a sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the Issuer's assets that meets the requirements of Section 5.01.

**ARTICLE SIX
DEFAULT AND REMEDIES**

SECTION 6.01. Events of Default.

Each of the following is an “Event of Default”:

- (1) default by the Issuer or any Guarantor for 30 consecutive days in the payment when due and payable of interest, if any, with respect to, the Notes;
- (2) default by the Issuer or any Guarantor in payment when due and payable of the principal of or premium, if any, on the Notes;
- (3) failure by the Issuer or any of its Subsidiaries to comply with any other covenants in this Indenture for 60 consecutive days after notice has been given to the Issuer by the Trustee or to the Issuer and the Trustee by the Holders of at least 25% in aggregate principal amount of the Notes then outstanding specifying the default and demanding compliance with any of the other covenants in this Indenture;
- (4) failure by the Issuer or any of its Subsidiaries to comply with any term, covenant, condition or provision of the Security Documents, for 60 consecutive days after notice has been given to the Issuer by the Trustee or to the Issuer and the Trustee by the Holders of at least 25% in aggregate principal amount of the Notes then outstanding specifying the default and demanding compliance with the Security Documents;
- (5) default under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by the Issuer or any Significant Subsidiary or any group of Subsidiaries that, taken together, would constitute a Significant Subsidiary, whether such Indebtedness now exists or is created after the Issue Date, if that default:
 - (A) is caused by a failure to pay the principal amount of any such Indebtedness at its stated final maturity after giving effect to any applicable grace periods (a “*Payment Default*”); or
 - (B) results in the acceleration of such Indebtedness prior to its stated final maturity,and, in the case of (A) and (B) above, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated, aggregates \$25.0 million or more;

(6) failure by the Issuer or any Significant Subsidiary or any group of Subsidiaries that, taken together, would constitute a Significant Subsidiary to pay final judgments aggregating in excess of \$25.0 million in excess of amounts that are covered by insurance or which have been bonded, which judgments are not paid, discharged or stayed for a period of 60 days after such judgment or judgments become final and non-appealable;

(7) except as permitted by this Indenture including upon the permitted release of the Guarantee, any Guarantee of a Significant Subsidiary or any group of Subsidiaries that, taken together, would constitute a Significant Subsidiary shall be held in any judicial proceeding to be unenforceable or invalid or shall cease for any reason to be in full force and effect or any Guarantor or any Person acting on behalf of any Guarantor shall deny or disaffirm in writing its obligations under its Guarantee and such Default continues for 21 days after notice of such Default has been given to the Issuer by the Trustee or to the Issuer and the Trustee by the Holders of at least 25% in aggregate principal amount of the Notes then outstanding (with a copy to the Trustee);

(8) the occurrence of any event of default under one or more Security Documents with respect to Collateral having a Fair Market Value in excess of \$10.0 million, including that such Security Document ceases to be in full force and effect or ceases to give the Security Agent, in any material respect, the Liens, rights, powers and privileges purported to be created thereby (other than by operation of the provisions of the Security Documents or the Intercreditor Agreement) and such event shall have continued uncured for a period of 30 days after the Issuer becomes aware of such event;

(9) either the Issuer or any of the Subsidiaries that is a Significant Subsidiary or any group of Subsidiaries that, taken together, would constitute a Significant Subsidiary as debtor in an involuntary case, pursuant to or with the meaning of any Bankruptcy Law:

- (A) commences a voluntary case or proceeding,
- (B) consents to the entry of an order for relief or decree against it in an involuntary case or proceeding, (C)
- (C) consents to the appointment of a Custodian of it or for all or substantially all of its assets,
- (D) makes a general assignment for the benefit of its creditors;
- (E) admits in writing its inability to pay its debts generally as they become due; or

(F) files a petition or answer or consent seeking reorganization or relief; and

(10) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(A) is for relief against the Issuer or any of its Subsidiaries that is a Significant Subsidiary or any group of Subsidiaries that, taken together, would constitute a Significant Subsidiary as debtor in an involuntary case or proceeding;

(B) appoints a Custodian of the Issuer or any of its Subsidiaries that is a Significant Subsidiary or any group of Subsidiaries that, taken together, would constitute a Significant Subsidiary, or a Custodian for all or substantially all of the assets of the Issuer or any of its Subsidiaries that is a Significant Subsidiary or any group of Subsidiaries that, taken together, would constitute a Significant Subsidiary or adjudges any such entity or group a bankrupt or insolvent or approves as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of such entity or group; or

(C) orders the winding up or liquidation of the Issuer or any of its Subsidiaries that is a Significant Subsidiary or any group of Subsidiaries that, taken together, would constitute a Significant Subsidiary;

and the order or decree remains unstayed and in effect for 60 consecutive days.

SECTION 6.02. Acceleration.

(a) In the case of an Event of Default specified in clauses (9) or (10) of Section 6.01 with respect to the Issuer, all outstanding Notes shall become due and payable immediately without further action or notice. If any other Event of Default occurs and is continuing, the Trustee, by written notice to the Issuer, or the Holders of at least 25% in principal amount of the then outstanding Notes, by written notice to the Trustee and the Issuer, may declare all the Notes to be due and payable. Any such notice from the Trustee or Holders shall specify the applicable Event(s) of Default and state that such notice is a "Notice of Acceleration." Upon such declaration of acceleration pursuant to a Notice of Acceleration, the aggregate principal of and accrued and unpaid interest, if any, on the outstanding Notes shall become due and payable without further action or notice.

(b) In the event of any Event of Default specified in clause (5) of Section 6.01, such Event of Default and its consequences (excluding, however, any resulting payment default) will be annulled, waived and rescinded, automatically and without any action by the Trustee or the Holders, if within 20 days after such Event of Default arose the Issuer delivers an Officer's Certificate to the Trustee stating that (x) the Indebtedness or guarantee that is the basis for such Event of Default has been discharged or (y) the Holders thereof have rescinded or waived the acceleration, notice or action (as the case may be) giving rise to such Event of

Default or (z) the default that is the basis for such Event of Default has been cured, it being understood that in no event shall an acceleration of the principal amount of the Notes as described above be automatically annulled, waived or rescinded upon the happening of any such events.

(c) No such rescission shall affect any subsequent Default or impair any right consequent thereto.

SECTION 6.03. Other Remedies.

(a) If a Default occurs and is continuing, the Trustee may pursue any available remedy by proceeding at law or in equity to collect the payment of principal of, or interest, if any, on, the Notes or to enforce the performance of any provision of the Notes or this Indenture and the Trustee may direct the Security Agent in accordance with the Intercreditor Agreement and any Additional Intercreditor Agreements to enforce the performance of any provision of the Security Documents if any amount becomes due and payable pursuant to Section 6.02 (but not otherwise).

(b) The Trustee and the Security Agent may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding. All rights of action and claims under the Security Documents may be prosecuted or enforced under the Security Documents by the Security Agent (upon the direction of the Trustee, where appropriate). A delay or omission by the Trustee, the Security Agent or any Holder in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. No remedy is exclusive of any other remedy. All available remedies are cumulative to the extent permitted by law.

(c) Each Holder, by accepting a Note, acknowledges that the exercise of remedies by the Security Agent with respect to the Collateral is subject to the terms and conditions of the Intercreditor Agreement and the Security Documents.

SECTION 6.04. Waiver of Past Defaults.

Subject to Sections 2.09 and 9.02, the Holders of a majority in principal amount of the outstanding Notes (which may include consents obtained in connection with a tender offer or exchange offer of Notes) by notice to the Trustee may rescind an acceleration or waive an existing Default or Event of Default and its consequences, except a continuing Default or Event of Default in the payment of principal of, or interest or premium on, any Note as specified in Section 6.01(1) or (2). In case of any such rescission or waiver, the Issuer, the Trustee and the Holders shall be restored to their former positions and rights hereunder and under the Notes, respectively. Upon any such rescission or waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture; but no such rescission or waiver shall extend to any subsequent or other Default or impair any right consequent thereto.

SECTION 6.05. Control by Majority.

(a) The Holders of not less than a majority in principal amount of the then outstanding Notes may direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee or exercising any trust or power conferred on the Trustee. However, the Trustee may refuse to follow any direction that conflicts with any law or this Indenture, that the Trustee determines in good faith may be unduly prejudicial to the rights of another Holder, or that may involve the Trustee in personal liability; *provided* that the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction.

(b) In the event the Trustee takes any action or follows any direction pursuant to this Indenture, the Trustee shall be entitled to indemnification satisfactory to it against any loss or expense that may be incurred by it by taking such action or following such direction.

SECTION 6.06. Limitation on Suits.

(a) No Holder shall have any right to institute any proceeding with respect to this Indenture or the Notes or for any remedy hereunder or thereunder, unless:

(1) such Holder has previously given the Trustee written notice that an Event of Default is continuing;

(2) Holders of at least 25% in aggregate principal amount of the outstanding Notes have requested in writing the Trustee to pursue the remedy;

(3) such Holders have offered the Trustee indemnity or security, including by way of pre-funding, satisfactory to it against any loss, liability or expense in complying with such request;

(4) the Trustee has not complied with such request within 60 days after the receipt thereof and the offer of indemnity or security, including by way of pre-funding, and

(5) Holders of a majority in aggregate principal amount of the outstanding Notes have not given the Trustee a written direction inconsistent with such request within such 60-day period.

(b) However, such limitations shall not apply to a suit instituted by a Holder of any Note for enforcement of payment of the principal of or interest or premium (if any) on, such Note on or after the due date therefor.

(c) A Holder may not use this Indenture to prejudice the rights of another Holder or to obtain a preference or priority over such other Holder (it being understood that the Trustee does not have an affirmative duty to ascertain whether or not such actions or forbearances are unduly prejudicial to such Holders).

SECTION 6.07. Collection Suit by Trustee.

If an Event of Default in payment of principal, interest or premium specified in Section 6.01(1) or (2) occurs and is continuing, the Trustee may recover judgment in its own name and as trustee of an express trust against the Issuer or any other obligor on the Notes for the whole amount of principal, premium and accrued interest (if any) and fees remaining unpaid, together with interest, if any, on overdue principal and, to the extent that payment of such interest is lawful, interest on overdue installments of interest, in each case at the rate *per annum* borne by the Notes and such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

SECTION 6.08. Trustee May File Proofs of Claim.

The Trustee may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and the Holders allowed in any judicial proceedings relating to the Issuer, their creditors or their property and shall be entitled and empowered to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same, and any Custodian in any such judicial proceedings is hereby authorized by each Holder to make such payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agent and counsel, and any other amounts due the Trustee under Section 7.07. To the extent that payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due to the Trustee under Section 7.07 hereof out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceedings whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding. The Trustee shall be entitled to participate as a member of any official committee of creditors in the matters as it deems necessary or advisable.

SECTION 6.09. Priorities.

- (a) If the Trustee receives any money pursuant to this Article Six, it shall pay out the money or property in the following order:

First: to the Trustee and the Agents for amounts due under Section 7.07;

Second: to Holders for interest accrued on the Notes, ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for interest;

Third: to Holders for principal amounts due and unpaid on the Notes and Additional Amounts, if any, ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for principal and premium;

Fourth: without duplication, to the Holders, for any other obligations due to them hereunder or under the Notes, *pro rata* based on the amounts of such obligations; and

Fifth: to the Issuer, or, if applicable, the Guarantors, as their respective interests may appear.

(b) The Trustee, upon prior written notice to the Issuer, may fix a record date and payment date for any payment to Holders pursuant to this Section 6.09.

SECTION 6.10. Undertaking for Costs.

In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee or the Security Agent for any action taken or omitted by it as Trustee or as Security Agent, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.10 shall not apply to a suit by the Trustee or the Security Agent, a suit instituted by a Holder for enforcement of payment of the principal of or interest or premium (if any) on, such Note on or after the due date therefor, or a suit by a Holder or Holders of more than 10% in principal amount of the outstanding Notes.

ARTICLE SEVEN TRUSTEE

SECTION 7.01. Duties of Trustee.

(a) If an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture and use the same degree of care and skill in their exercise as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs.

(b) Subject to paragraph (a) above:

(1) the Trustee and each Agent undertakes to perform only those duties as are specifically set forth herein and no duties, covenants, responsibilities or obligations shall be implied in this Indenture against the Trustee or any Agent; and

(2) in the absence of bad faith on its part, the Trustee and each Agent may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates (including Officer's Certificates) or opinions (including Opinions of Counsel) furnished to the Trustee or such Agent and conforming to the requirements of this Indenture. However, in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of mathematical calculations or other matters stated therein); and

(3) the Trustee shall not be liable, answerable or accountable under any circumstances, except for its own bad faith, willful misconduct or negligence, as conclusively determined by the final judgment of a court of competent jurisdiction, no longer subject to appeal or review.

(c) Notwithstanding anything to the contrary herein, the Trustee may not be relieved from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(1) this clause does not limit the effect of Section 7.01(b);

(2) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it shall be conclusively determined by the final judgment of a court of competent jurisdiction, no longer subject to appeal or review, that the Trustee was negligent in ascertaining the pertinent facts; and

(3) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.05.

(d) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any liability (financial or otherwise) in the performance of any of its duties hereunder or to take or omit to take any action under this Indenture or take any action at the request or direction of Holders if it shall have grounds for believing in its sole determination that repayment of such funds or indemnity satisfactory to it is not assured to it.

(e) Whether or not therein expressly so provided, every provision of this Indenture that in any way relates to the Trustee is subject to this Article Seven.

(f) Neither the Trustee nor any Paying Agent shall be liable for interest on any money received by it except as the Trustee or the relevant Paying Agent may agree in writing with the Issuer. Money held by the Trustee or any Paying Agent for the benefit of the Holders need not be segregated from other funds except to the extent required by law. Any funds held by the Trustee or any Paying Agent are held as banker and are not subject to the UK Financial Conduct Authority's Handbook of rules and guidance from time to time in relation to client money.

(g) In the absence of bad faith, negligence or willful misconduct on the part of the Trustee or the Security Agent, the Trustee and the Security Agent, as applicable, shall not be responsible for the application of any money by any Paying Agent.

SECTION 7.02. Rights of Trustee.

Subject to Section 7.01, but notwithstanding anything else contained herein to the contrary:

(a) The Trustee may conclusively rely, and shall be protected in acting or refraining from acting, upon any Board Resolution, certificate (including any Officer's Certificate), statement, instrument, opinion (including any Opinion of Counsel), notice, request, direction, consent, order, approval, bond, debenture, or other paper or document (including any of the foregoing delivered in electronic format) believed by it to be genuine and to have been signed or presented by the proper Person. The Trustee need not investigate any statement, representation or warranty or any fact or matter stated in such document and may conclusively rely as to the truth of the statements and the correctness of the opinions expressed therein.

(b) Before the Trustee or the Security Agent acts or refrains from acting, it may require an Officer's Certificate and/or an Opinion of Counsel stating that all conditions precedent contained in this Indenture, the Notes and/or the Guarantees related to such act or omission have been satisfied (*provided* that no Officer's Certificate or Opinion of Counsel shall be required in connection with the initial issuance of Notes on the Issue Date). Neither the Trustee nor the Security Agent shall be liable for any action it takes or omits to take in good faith in reliance on such Officer's Certificate or Opinion of Counsel. As to any fact or matter the ascertainment of which is not specifically described herein, the Trustee shall be entitled to receive and may for all purposes hereof conclusively rely on a certificate, signed by an officer of any duly authorized Person, as to such fact or matter, and such certificate shall constitute full protection to the Trustee for any action taken or omitted to be taken by it in good faith in reliance thereon.

(c) The Trustee may act through its attorneys, custodians, nominees and agents and shall not be responsible for the misconduct or negligence of, or for the supervision of, any attorney, custodian, nominee or agent appointed with due care.

(d) The Trustee shall not be liable for any action it takes or omits to take in good faith which it reasonably believes to be authorized or within its rights or powers under this Indenture; *provided, however*, that the Trustee's conduct does not constitute willful misconduct, bad faith or negligence.

(e) The Trustee may consult with counsel of its selection and the advice or opinion of such counsel as to matters of law shall be full and complete authorization and protection from liability in respect of any action taken, omitted or suffered by it hereunder in good faith and in accordance with the advice or opinion of such counsel.

(f) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture whether on its own motion or at the request, order or direction of any of the Holders pursuant to the provisions of this Indenture, unless such Holders shall have offered and, if accepted, provided to the Trustee indemnity or security, including by way of pre-funding, satisfactory to it against any loss, liability or expense which may be incurred therein or thereby.

(g) In the event the Trustee receives inconsistent or conflicting requests and indemnity from two or more groups of Holders, each representing less than a majority in aggregate principal amount of the Notes then-outstanding, pursuant to the provisions of this Indenture, the Trustee, in its sole discretion, may determine what action, if any, will be taken and shall not incur any liability for its failure to act until such inconsistency or conflict is, in its opinion, resolved.

(h) The Trustee shall not be bound to make any investigation into (i) the facts or matters stated in any Board Resolution, certificate (including any Officer's Certificate), statement, instrument, opinion (including any Opinion of Counsel), notice, request, direction, consent, order, bond, debenture, or other paper or document, (ii) the performance or observation by the Issuer or any other Person of any of the covenants, agreements or other terms or conditions set forth in this Indenture or in any related document, (iii) the occurrence of any default, or the validity, enforceability, effectiveness or genuineness of this Indenture, any Security Document, any other related document or any other agreement, instrument or document, (iv) the creation, perfection or priority of any lien purported to be created by this Indenture or any related document, (v) the value or the sufficiency of any Collateral or (vi) the satisfaction of any condition set forth in this Indenture or in any related document, but the Trustee may (without obligation) make such further inquiry or investigation into such facts or matters as it may see fit and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled, upon reasonable notice to the Issuer, to examine the books, records, and premises of the Issuer, personally or by agent or attorney at the sole cost of the Issuer.

(i) The Trustee shall not be required to give any bond or surety in respect of the performance of its powers and duties hereunder.

(j) The permissive rights of the Trustee to do things enumerated in this Indenture shall not be construed as duties.

(k) The Trustee shall have no duty to inquire as to the performance of the Issuer with respect to the covenants contained in this Indenture, including, without limitation, Article Four. In addition, the Trustee shall not be deemed to have knowledge of a Default or Event of Default except (i) any Default or Event of Default occurring pursuant to Section 6.01(1) or 6.01(2) at a time when the Trustee is acting as Paying Agent or (ii) any Default or Event of Default of which a Responsible Officer of the Trustee shall have received written notification at the Corporate Trust Office referencing the Notes and this Indenture and absent any such notice may assume without inquiry that the Issuer is duly complying with its obligations contained in this Indenture required to be performed and observed by it, and that no Default or Event of Default or other event which would require repayment of the Notes has occurred.

(l) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by (i) the Trustee in each Debt Document to which it is a party or otherwise subject, whether or not specifically set forth therein, and (ii) each Agent, the Security Agent, and to each agent, custodian and other Person employed to act hereunder (*provided, however*, that any reference to “negligence” with respect to the Trustee shall be deemed to be a reference to “gross negligence” with respect to the Registrar, the Transfer Agent, the Paying Agents and to each agent and custodian, and any reference to “willful misconduct” with respect to the Trustee shall be deemed to be a reference to a “willful default” with respect to the Paying Agent).

(m) In no event shall the Trustee be responsible or liable for special, indirect, punitive or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(n) The Trustee and the Security Agent may request that the Issuer deliver a certificate in the form of Exhibit E setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture.

(o) The Trustee shall not have any duty or responsibility in respect of (i) any recording, filing, or depositing of this Indenture or any other agreement or instrument, monitoring or filing any financing statement or continuation statement evidencing a security interest, the maintenance of any such recording, filing or depositing or any re-recording, re-filing or re-depositing of any thereof, or otherwise monitoring the perfection, continuation of perfection or the sufficiency or validity of any security interest in or related to the Collateral, (ii) the acquisition or maintenance of any insurance or (iii) the payment or discharge of any tax, assessment, or other governmental charge or any lien or encumbrance of any kind owing with respect to, assessed or levied against, any part of the Collateral. The Trustee shall be authorized to, but shall in no event have any duty or responsibility to, file any financing or continuation statements or record any documents or instruments in any public office at any time or times or otherwise perfect or maintain any security interest in the Collateral

(p) Each Holder, by its acceptance of a Note hereunder, represents that it has, independently and without reliance upon the Trustee or any other Person, and based on such documents and information as it has deemed appropriate, made its own investment decision in respect of the Notes. Each Holder also represents that it will, independently and without reliance upon the Trustee or any other Person, and based on such documents and information as it shall deem appropriate at the time, continue to make its own decisions in taking or not taking action under this Indenture and in connection with the Notes. Except for notices, reports and other documents expressly required to be furnished to the Holders by the Trustee hereunder, the Trustee shall not have any duty or

responsibility to provide any Holder with any other information concerning the transactions contemplated hereby, the Issuer or any other parties to any related documents which may come into the possession of the Trustee or any of its officers, directors, employees, agents, representatives or attorneys-in-fact.

(q) The Trustee will not be liable to any person if prevented or delayed in performing any of its obligations or discretionary functions under this Indenture by reason of any present or future law applicable to it, by any governmental or regulatory authority or by any circumstances beyond its control. Notwithstanding anything else herein contained, the Trustee may refrain without liability from doing anything that would or might in its opinion be contrary to any law of any state or jurisdiction (including but not limited to the United States of America or any jurisdiction forming a part of it and England & Wales) or any directive or regulation of any agency of any such state or jurisdiction and may without liability do anything which is, in its opinion, necessary to comply with any such law, directive or regulation.

(r) The Trustee shall not be required to take any action under this Indenture or any related document if taking such action (A) would subject the Trustee to a tax in any jurisdiction where it is not then subject to a tax or (B) would require the Trustee to qualify to do business in any jurisdiction where it is not then so qualified. The Issuer shall provide to the Trustee, the Security Agent, the Registrar and the Paying Agents a certified list of authorized signatories that are authorized to act on behalf of the Issuer hereunder.

SECTION 7.03. Individual Rights of Trustee and Security Agent.

The Trustee and the Security Agent, each in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Issuer, its Subsidiaries or its respective Affiliates with the same rights it would have if it were not Trustee or Security Agent. However, in the event that the Trustee acquires any conflicting interest it must eliminate such conflict within 90 days or resign. However, the Trustee must comply with Section 7.10.

SECTION 7.04. Disclaimer of Trustee and Security Agent.

The Trustee and the Security Agent shall not be responsible for and make no representation as to the validity, legality, enforceability, sufficiency or adequacy of this Indenture, the Notes, the Guarantees or the Security Documents or the Collateral covered thereby, and they shall not be accountable for the Issuer's use of the Notes, the proceeds from the Notes or any money paid to the Issuer pursuant to the provisions hereof, and they shall not be responsible for any statement of the Issuer's in this Indenture, the Guarantees, the Security Documents or any document issued in connection with the sale of Notes or any statement in the Notes other than, with respect to the Trustee, the Trustee's certificate of authentication. Each of the Trustee and the Security Agent makes no representations with respect to the effectiveness or adequacy of this Indenture.

SECTION 7.05. Notice of Default.

If a Default or Event of Default occurs and is continuing of which a Responsible Officer of the Trustee shall have received written notification at the Trustee's Corporate Trust Office, the Trustee shall deliver electronically or mail to each Holder notice of the uncured Default or Event of Default within 90 days after its receipt of such notice of Default or Event of Default. Except in the case of a Default in payment of principal of, or interest, or premium on, any Note, including an accelerated payment and the failure to make a payment on the Change of Control Payment Date pursuant to a Change of Control Offer, the Collateral Sale Payment Date pursuant to a Collateral Sale Offer or on the Total Loss Event Payment Date pursuant to a Total Loss Event Offer, the Trustee may withhold the notice if and so long as the Trustee in good faith determines that withholding the notice is in the interest of the Holders.

SECTION 7.06. [Reserved].SECTION 7.07. Compensation and Indemnity.

(a) The Issuer shall pay to the Trustee from time to time such compensation as the Issuer and the Trustee shall from time to time agree in writing for its services rendered by it hereunder and under the Intercreditor Agreement and the Security Documents. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Issuer shall reimburse the Trustee promptly upon request for all properly incurred disbursements, expenses and advances (including but not limited to properly incurred fees and expenses of counsel, costs of collection, costs of preparing and reviewing reports, certificates and other documents, costs of preparation and mailing of notices to Holders, in addition to the compensation for its services) incurred or made by it in addition to the compensation for its services, except any such disbursements, expenses and advances as may be attributable to the Trustee's negligence, bad faith or willful misconduct (as conclusively determined by the final judgment of a court of competent jurisdiction, no longer subject to appeal or review). Such expenses shall include the properly incurred fees and expenses of the Trustee's agents, counsel, accountants, experts, any co-trustee or any separate trustee.

(b) The Issuer shall defend, indemnify and hold the Trustee and any predecessor Trustee and their respective officers, directors, employees and agents harmless against, any and all losses, damages, claims, liabilities, penalties, suits, causes of action, judgments expenses (including, but not limited to, attorneys' fees and expenses), actions, stamp or other taxes (other than taxes based upon, measured by or determined by the income of such Person), of whatever kind or nature regardless of their merit, demanded, asserted or claimed against any of them directly or indirectly relating to or arising out of or in connection with the acceptance or administration of this trust, the Intercreditor Agreement or the Security Documents including all properly incurred costs and expenses of enforcing this Indenture, defending themselves against or investigating any claim or liability in connection with the exercise or performance of any of the Trustee's rights, powers or duties hereunder or thereunder; *provided however* that the Issuer need not indemnify against any loss, liability or expense incurred by the Trustee as a result of its own willful misconduct, negligence or bad faith (as conclusively determined by the final judgment of a court of competent jurisdiction, no longer subject to appeal or review). The Issuer need not pay for any settlement made without its written consent, which consent shall not be unreasonably withheld or delayed.

(c) All indemnities to be paid under this Indenture to the Trustee or the Security Agent shall be payable immediately when due in U.S. dollars (“Dollars”) in the full amount due, without deduction for any variation in any Rate of Exchange (as defined below). The Issuer hereby agrees to indemnify each of the Trustee and the Security Agent against any losses, damages, penalties, costs, expenses or disbursements of any kind or nature whatsoever, including, without limitation, attorney’s fees and expenses, incurred by the Trustee or the Security Agent as a result of any judgment or order being given or made for the amount due hereunder and such judgment or order being expressed and paid in a currency (the “*Judgment Currency*”) other than Dollars and as a result of any variation as between (i) the rate of exchange at which the dollar amount is converted into Judgment Currency for the purpose of such judgment or order, and (ii) the Rate of Exchange at which the Trustee or the Security Agent, as applicable, is then able to purchase Dollars with the amount of the Judgment Currency actually received by the Trustee or the Security Agent, as applicable. The indemnity set forth in this Section 7.07(c) shall constitute a separate and independent obligation of the Issuer and shall continue in full force and effect notwithstanding any such judgment or order as aforesaid. The term “*Rate of Exchange*” means the rate at which the Trustee or the Security Agent, as applicable, is able to purchase Dollars with the Judgment Currency on the foreign exchange market on the relevant date and shall include any premiums and other reasonable costs of exchange payable in connection with the purchase or, or conversion into, the relevant currency.

(d) To secure the Issuer’s payment obligations in this Section 7.07, the Trustee shall have a Lien prior to the Notes against all money or property held or collected by the Trustee, in its capacity as Trustee, except money or property held in trust to pay principal and interest on particular Notes.

(e) When the Trustee incurs expenses or renders services after a Default specified in Section 6.01(9) or (10) occurs, such expenses (including the fees and expenses of counsel) and the compensation for such services are intended to constitute expenses of administration under any Bankruptcy Law or any law relating to creditors’ rights generally.

(f) Notwithstanding any other provision in this Indenture, the foregoing provisions of this Section 7.07 shall survive the satisfaction and discharge of this Indenture or the appointment of a successor Trustee.

SECTION 7.08. Replacement of Trustee.

(a) The Trustee may resign at any time upon 30 days’ written notice to the Issuer in writing. The Holders of a majority in principal amount of the outstanding Notes may remove the Trustee upon 30 days written notice to the Issuer and the Issuer may appoint a successor Trustee. The Issuer may remove the Trustee at any time if:

- (1) the Trustee fails to comply with Section 7.10;

- Law;
- (2) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;
 - (3) a receiver or other public officer takes charge of the Trustee or its property; or
 - (4) the Trustee becomes incapable of acting as Trustee hereunder.

(b) If the Trustee resigns or is removed or if a vacancy exists in the office of the Trustee for any reason, the Issuer shall notify each Holder of such event and shall promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in principal amount of the then outstanding Notes may appoint a successor Trustee to replace the successor Trustee appointed by the Issuer.

(c) A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Issuer. Immediately after that, the retiring Trustee shall transfer, after payment of all sums then owing to the Trustee pursuant to Section 7.07, all property held by it as Trustee hereunder and under the Security Documents to the successor Trustee, subject to the Lien provided in Section 7.07, the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. A successor Trustee shall deliver electronically or mail notice of its succession to each Holder. All costs incurred in connection with any resignation or removal hereunder shall be borne by the Issuer.

(d) Any resignation or removal of the Trustee pursuant to this Indenture shall be deemed to be a resignation or removal of the Trustee under the Intercreditor Agreement and the Security Documents and any appointment of a successor Trustee pursuant to this Indenture shall be deemed to be an appointment of such person as a successor to the Trustee under the Intercreditor Agreement and the Security Documents and such successor shall assume all of the obligations of the Trustee under the Intercreditor Agreement and the Security Documents.

(e) If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Issuer or the Holders of at least 10% in principal amount of the outstanding Notes may petition, at the expense of the Issuer, any court of competent jurisdiction for the appointment of a successor Trustee at the expense of the Issuer.

(f) If the Trustee fails to comply with Section 7.10, any Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(g) Notwithstanding replacement of the Trustee pursuant to this Section 7.08, or the resignation or removal of any Agent, the Issuer's obligations under Section 7.07 shall continue for the benefit of the retiring Trustee or the retiring Agent, as applicable.

SECTION 7.09. Successor Trustee by Merger, Etc.

If the Trustee consolidates with, merges or converts into, or transfers all or substantially all of its corporate trust business to, another Person, the successor Person, without any further act, shall, if such resulting, surviving or transferee Person is otherwise eligible hereunder, be the successor Trustee; *provided* that such Person shall be otherwise qualified and eligible under this Article Seven.

SECTION 7.10. Eligibility; Disqualification.

There will at all times be a Trustee hereunder that is a corporation organized and doing business under the laws of England and Wales, or the United States of America or of any state thereof that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal or state authorities.

ARTICLE EIGHT
SATISFACTION OR DISCHARGE OF INDENTURE; DEFEASANCE

SECTION 8.01. Termination of the Issuer's Obligations.

(a) The Issuer may terminate its obligations under the Notes and this Indenture and the obligations of the Guarantors under the Guarantees and this Indenture and this Indenture shall be discharged and shall cease to be of further effect as to all Notes issued hereunder and then outstanding, except those obligations referred to in Section 8.01(c), when:

(1) either:

(A) all Notes that have been authenticated, except lost, stolen or destroyed Notes that have been replaced or paid and Notes for whose payment money has been deposited in trust or segregated and held in trust by the Issuer and thereafter repaid to the Issuer or discharged from the trust, have been delivered to the Trustee for cancellation; or

(B) all Notes that have not been delivered to the Trustee for cancellation have become due and payable by reason of the mailing of a notice of redemption or otherwise or will become due and payable within one year or have been called for redemption pursuant to Section 5, Section 6 or Section 7 of the Notes and the Issuer has irrevocably deposited or caused to be deposited with the Trustee, or another entity designated for such purpose, as trust funds in trust solely for the benefit of the Holders, cash or Cash Equivalents in U.S. dollars, non-callable Government Securities, or a combination thereof, in amounts as shall be sufficient, without consideration of any reinvestment of interest, to pay and discharge the entire Indebtedness on the Notes not delivered to the Trustee for cancellation for principal, premium and accrued interest, if any, to the date of maturity or redemption;

(2) no Default or Event of Default has occurred and is continuing on the date of the deposit (other than an Event of Default resulting from the borrowing of funds to be applied to such deposit including the incurrence of Liens in connection with such borrowings) and the deposit shall not result in a breach or violation of, or constitute a default under this Indenture;

(3) the Issuer or any Guarantor has paid or caused to be paid all sums payable by them under this Indenture; and

(4) the Issuer has delivered irrevocable instructions to the Trustee under this Indenture to apply the deposited money toward the payment of the Notes at maturity or on the Redemption Date, as the case may be.

(b) In addition, the Issuer must deliver an Officer's Certificate and an Opinion of Counsel to the Trustee and the Security Agent each stating that all conditions precedent to satisfaction and discharge have been satisfied and the Trustee and the Security Agent may rely on such Officer's Certificate and Opinion of Counsel exclusively.

(c) In the case of Section 8.01(a)(1)(B), and subject to the next sentence and notwithstanding Section 8.01(b), the Issuer's obligations in Sections 2.03, 2.05, 2.06, 2.07, 2.08, 2.12, 4.01, 4.02, 4.03 (as to legal existence of the Issuer only), 7.07, 8.05, 8.06, 8.07 and 8.08 shall survive until the Notes are no longer outstanding pursuant Section 2.08(c). After the Notes are no longer outstanding, the Issuer's obligations in Sections 7.07, 8.06 and 8.07 shall survive.

(d) After such delivery or irrevocable deposit, the Trustee upon request shall acknowledge in writing the discharge of the Issuer's obligations under the Notes and this Indenture except for those surviving obligations specified above.

SECTION 8.02. Option to Effect Legal Defeasance or Covenant Defeasance.

The Issuer may, at the option of its Boards of Directors evidenced by a Board Resolution set forth in an Officer's Certificate, and at any time, elect to have either Section 8.03 or 8.04 applied to all outstanding Notes and all obligations of any Guarantor upon compliance with the conditions set forth in this Article Eight.

SECTION 8.03. Legal Defeasance.

(a) Upon the Issuer's exercise under Section 8.02 of the option applicable to this Section 8.03, the Issuer and each of the Guarantors shall, subject to the satisfaction of the conditions set forth in Section 8.05, be deemed to have been discharged from their obligations with respect to all outstanding Notes (including the Guarantees) on the date the conditions set forth below are satisfied (hereinafter, "*Legal Defeasance*"). Such Legal Defeasance means that the Issuer and the Guarantors shall be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Notes (including the Guarantees), which shall thereafter be deemed to be "outstanding" only for the purposes of Section 8.06 and the other Sections of this Indenture referred to in clauses (1) and (2) below, and to have satisfied all of their other obligations under such Notes, the Guarantees and this Indenture (and the Trustee, on

demand of and at the expense of the Issuer, shall execute proper instruments acknowledging the same), except for the following provisions which shall survive until otherwise terminated or discharged hereunder:

- (1) the rights of Holders of outstanding Notes to receive payments in respect of the principal of or interest or premium, if any, on such Notes when such payments are due from the trust referred to in Section 8.06;
- (2) the Issuer's obligations with respect to the Notes under Article Two and Section 4.02;
- (3) the rights, powers, trusts, duties, indemnities and immunities of the Trustee and the Security Agent hereunder, and the Issuer's and the Guarantors' obligations in connection therewith; and
- (4) this Article Eight.

(b) Subject to compliance with this Article Eight, the Issuer may exercise its option under this Section 8.03 notwithstanding the prior exercise of its option under Section 8.04.

SECTION 8.04. Covenant Defeasance.

Subject to the satisfaction of the conditions set forth in Section 8.05, upon the Issuer's exercise under Section 8.02 of the option applicable to this Section 8.04, (i) the Issuer and each of the Guarantors shall be released from each of their obligations under the covenants contained in Sections 4.03 (other than with respect to the legal existence of the Issuer), 4.04, 4.05, 4.07, 4.09 through 4.27 and 5.01 (except for the covenants contained in clause (a)(1) thereof) with respect to the outstanding Notes on and after the date the conditions set forth in Section 8.05 are satisfied (hereinafter, "*Covenant Defeasance*"), (ii) the Issuer and the Guarantors may without condition cause the release of any Guarantees and of any Liens securing the Notes or the Guarantees, and (iii) the Notes shall thereafter be deemed not "outstanding" for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but shall continue to be deemed "outstanding" for all other purposes hereunder (it being understood that such Notes shall not be deemed outstanding for accounting purposes). For this purpose, *Covenant Defeasance* means that, with respect to the outstanding Notes and Guarantees, the Issuer and the Guarantors may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply, and any release of the Guarantees or of Liens securing the Notes or the Guarantees, shall not constitute a Default or an Event of Default under Section 6.01, but, except as specified above, the remainder of this Indenture and such Notes and Guarantees shall be unaffected thereby. In addition, upon the Issuer's exercise under Section 8.02 of the option applicable to this Section 8.04, subject to the satisfaction of the conditions set forth in Section 8.05, Sections 6.01(3) through 6.01(8) shall not constitute Events of Default.

SECTION 8.05. Conditions to Legal or Covenant Defeasance.

(a) In order to exercise either Legal Defeasance or Covenant Defeasance under either Sections 8.03 or 8.04:

(1) the Issuer must irrevocably deposit with the Trustee or another entity designated for such purpose, in trust, for the benefit of the Holders, cash in U.S. dollars, non-callable Government Securities, or a combination thereof, in amounts as shall be sufficient, without consideration of any reinvestment of interest, in the opinion of a nationally recognized investment bank, appraisal firm or firm of independent public accountants, to pay the principal of or interest and premium, if any, on the outstanding Notes on the Stated Maturity or on the applicable Redemption Date, as the case may be, and the Issuer must specify whether the Notes are being defeased to maturity or to a particular Redemption Date;

(2) in the case of an election under Section 8.03, the Issuer must deliver to the Trustee an Opinion of Counsel confirming that (a) the Issuer has received from, or there has been published by, the U.S. Internal Revenue Service a ruling or (b) since the Issue Date, there has been a change in the applicable U.S. federal income tax law, in either case to the effect that, and based thereon such Opinion of Counsel shall confirm that, the Holders of the outstanding Notes will not recognize income, gain or loss for federal income tax purposes as a result of such Legal Defeasance and shall be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(3) in the case of an election under Section 8.04, the Issuer must deliver to the Trustee an Opinion of Counsel confirming that the Holders of the outstanding Notes shall not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Covenant Defeasance and shall be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(4) no Default or Event of Default has occurred and is continuing on the date of such deposit (other than a Default or Event of Default resulting from, or otherwise arising in connection with, the borrowing of funds to be applied to such deposit and the grant of any Lien securing such borrowing);

(5) such Legal Defeasance or Covenant Defeasance will not result in a breach or violation of, or constitute a default under, any material agreement or instrument (other than this Indenture) to which the Issuer or any of its Subsidiaries is a party or by which the Issuer or any of its Subsidiaries is bound;

(6) the Issuer must deliver to the Trustee an Officer's Certificate stating that the deposit was not made by the Issuer with the intent of preferring the Holders over the other creditors of the Issuer or any of its Subsidiaries or with the intent of defeating, hindering, delaying or defrauding creditors of the Issuer or any of its Subsidiaries or others; and

(7) the Issuer must deliver to the Trustee and the Security Agent an Officer's Certificate and an Opinion of Counsel, each to the effect that all conditions precedent relating to the Legal Defeasance or the Covenant Defeasance have been complied with and the Trustee and the Security Agent may rely on such Officer's Certificate and Opinion of Counsel exclusively.

(b) Notwithstanding the foregoing, the opinion of counsel required by clause (2) above with respect to an election under Section 8.03 need not be delivered if all Notes not theretofore delivered to the Trustee for cancellation shall become due and payable within one year under arrangements reasonably satisfactory to the Trustee for the giving of a notice of redemption by the Trustee in the name and at the expense of the Issuer.

(c) If the funds deposited with the Trustee to effect Covenant Defeasance are insufficient to pay the principal of and interest on the Notes when due, then the obligations of the Issuer and the Guarantors under this Indenture will be revived and no such defeasance will be deemed to have occurred.

SECTION 8.06. Deposited Money and Government Securities to be Held in Trust; Other Miscellaneous Provisions.

(a) Subject to Section 8.08, all cash, Cash Equivalents and non-callable Government Securities (including the proceeds thereof) deposited with the Trustee (or other qualifying Trustee, collectively for purposes of this Section 8.06, the "Trustee") pursuant to this Article Eight in respect of the outstanding Notes shall be held in trust and applied by the Trustee, in accordance with the provisions of such Notes and this Indenture, to the payment, either directly or through any Paying Agent as the Trustee may determine, to the Holders of such Notes of all sums due and to become due thereon in respect of principal, premium, if any, and interest, but such money need not be segregated from other funds except to the extent required by law.

(b) The Issuer shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the cash or non-callable Government Securities deposited pursuant to Section 8.05 or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of the outstanding Notes.

(c) Notwithstanding anything in this Article Eight to the contrary, the Trustee shall deliver or pay to the Issuer from time to time upon the request of the Issuer any money or non-callable Government Securities held by it as provided in Section 8.05 which, in the opinion of a firm of independent public accountants or any investment bank or appraisal firm, in each case nationally recognized in the United States expressed in a written certification thereof

delivered to the Trustee (which may be the opinion delivered under Section 8.05), are in excess of the amount thereof that would then be required to be deposited to effect an equivalent Legal Defeasance or Covenant Defeasance.

SECTION 8.07. Repayment to the Issuer.

Any money deposited with the Trustee or any Paying Agent, in trust for the payment of the principal of, premium, if any, or interest on any Note and remaining unclaimed for two years after such principal, premium, if any, or interest has become due and payable shall promptly be paid to the Issuer on its written request or shall be discharged from such trust; and the Holder of such Note shall thereafter be permitted to look only to the Issuer for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Issuer as trustee thereof, shall thereupon cease.

SECTION 8.08. Reinstatement.

If the Trustee or Paying Agent is unable to apply any United States dollars or non-callable Government Securities in accordance with this Article Eight, as the case may be, by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Issuer's and the Guarantors' obligations under this Indenture, the Notes, the Guarantees and the Security Documents shall be revived and reinstated as though no deposit had occurred pursuant to this Article Eight until such time as the Trustee or Paying Agent is permitted to apply all such money in accordance with this Article Eight, as the case may be; *provided, however*, that (a) if the Issuer makes any payment of principal of, premium, if any, or interest on any Note following the reinstatement of its obligations, the Issuer shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money held by the Trustee or Paying Agent and (b) so long as no payment Default or Event of Default has occurred and is continuing, unless otherwise required by any legal proceeding or any other order or judgment of any court or governmental authority, the Trustee or Paying Agent shall return all such money and U.S. Obligations (in each case to the extent remaining in their possession) to the Issuer promptly after receiving a written request therefore at any time, if such reinstatement of the Issuer's obligations has occurred and continues to be in effect other than such money as has been applied to payment on the Notes. The Issuer shall be entitled to cure any event resulting in the reinstatement of its obligations hereunder.

**ARTICLE NINE
AMENDMENTS, SUPPLEMENTS AND WAIVERS**

SECTION 9.01. Without Consent of Holders.

(a) The Issuer, the Guarantors, the Trustee and the Security Agent, as applicable, may amend, waive, supplement or otherwise modify this Indenture, the Notes, the Guarantees, any Security Document or any other agreement or instrument entered into in connection with this Indenture without notice to or consent of any Holder:

- (1) to cure any ambiguity, omission, mistake, defect or inconsistency;

- (2) to provide for uncertificated Notes in addition to or in place of certificated Notes;
- (3) to provide for the assumption of the Issuer's or a Guarantor's obligations to Holders and Guarantees in the case of a merger, amalgamation or consolidation or sale of all or substantially all of such Issuer's or such Guarantor's assets, as applicable;
- (4) to make any change that would provide any additional rights or benefits to the Holders or that does not materially adversely affect the legal rights under this Indenture of any such Holder;
- (5) to allow any Guarantor to execute a supplemental indenture and a Guarantee with respect to the Notes or to release a Guarantee or a security interest under the Notes or a Guarantee in accordance with the terms of this Indenture or to accede to the Intercreditor Agreement or any Additional Intercreditor Agreement;
- (6) to provide for the issuance of Additional Notes in accordance with the terms of this Indenture;
- (7) to evidence and provide for the acceptance of appointment under this Indenture by a successor Trustee or Security Agent;
- (8) to comply with the rules of any applicable securities depository;
- (9) to conform the text of this Indenture, the Guarantees, the Notes or the Security Documents to any provision of the "Description of Notes" in the Offering Memorandum to the extent that such provision in the "Description of Notes" was intended by the Issuer (as demonstrated by an Officer's Certificate) to be a substantially verbatim recitation of a provision of this Indenture, the Guarantees, the Notes or the Security Documents;
- (10) to add to the covenants of the Issuer or any Subsidiary for the benefit of the Holders or surrender any rights or powers conferred upon the Issuer or any Subsidiary;
- (11) to provide for a reduction in the minimum denomination of the Notes;
- (12) to provide for the succession of any parties to the Security Documents, the Intercreditor Agreement or any Additional Intercreditor Agreement (and other amendments that are administrative or ministerial in nature) in connection with an amendment, renewal, extension, substitution, refinancing, restructuring, replacement, supplementing or other modification from time to time of the New Term Loan Facility or any other agreement that is not prohibited by this Indenture;

(13) to provide for the release, substitution or addition of Collateral or Guarantees in accordance with the terms of this Indenture, the Security Documents, the Intercreditor Agreement and any Additional Intercreditor Agreement; or

(14) to enter into an Additional Intercreditor Agreement in accordance with the terms of this Indenture.

(b) Upon the request of the Issuer accompanied by a Board Resolution of its Board of Directors authorizing the execution of any such amendment, waiver, supplement or other modification, and upon receipt by the Trustee and the Security Agent, of any documents required under Section 9.06, the Trustee and the Security Agent shall join with the Issuer and any Guarantors in the execution of such amendment, waiver, supplement or other modification. In connection with any such amendment, supplement or waiver, the Trustee and the Security Agent shall be entitled to receive and conclusively rely upon, an Officer's Certificate and an Opinion of Counsel each stating that such amendment, supplement or waiver is authorized or permitted by the terms of this Indenture, the Intercreditor Agreement, the Additional Intercreditor Agreement (if applicable) and the Security Documents, and that all conditions precedent provided in this Indenture, the Intercreditor Agreement, the Additional Intercreditor Agreement (if applicable) and the Security Documents relating to the execution and delivery of such amendment, supplement or waiver have been complied with.

(c) Notwithstanding the foregoing, neither the Trustee nor the Security Agent shall have any obligation to enter into any amendment, waiver, supplement or other modification that affects its own rights, protections, duties, indemnities or immunities under this Indenture, the Notes, the Guarantees, the Intercreditor Agreement, any Additional Intercreditor Agreement, any Security Document or any other agreement.

SECTION 9.02. With Consent of Holders.

(a) Subject to Sections 9.01 and this Section 9.02 and the Intercreditor Agreement and any Additional Intercreditor Agreement, the Issuer, the Guarantors, the Trustee and the Security Agent, together, with the written consent of the Holder or Holders of at least a majority in aggregate principal amount of the Notes then outstanding (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Notes), may amend or supplement this Indenture, the Notes, the Guarantees, and any Security Document, and any existing Default or Event of Default or compliance with any provision of this Indenture, the Notes, the Guarantees or the Security Documents may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Notes (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Notes).

(b) Notwithstanding Section 9.02(a), without the consent of the Issuer and Holders representing at least 90% of the aggregate principal amount of Notes then outstanding, an amendment, supplement or waiver may not (with respect to any Notes held by a non-consenting Holder):

(1) reduce the principal amount of Notes whose Holders must consent to an amendment, supplement or waiver;

- (2) reduce the principal of or change the fixed maturity of any Note or alter the provisions with respect to the redemption of the Notes (other than the number of days in advance of the redemption of Notes that notice of redemption has been given) (it being understood that this clause (2) does not apply to Sections 4.09 and 4.23; and it being further understood that this clause (2) does not apply to the covenants contained in Sections 4.13 and 4.21 of this Indenture, which are covered by Section 9.02(c));
- (3) reduce the rate of or change the time for payment of interest on any Note;
- (4) waive a Default or Event of Default in the payment of principal of, or interest or premium, if any, on the Notes (except a rescission of acceleration of the Notes by the holders of at least a majority in aggregate principal amount of the then outstanding Notes in accordance with the provisions of this Indenture and a waiver of the payment default that resulted from such acceleration);
- (5) make any Note payable in money other than that stated in the Notes;
- (6) make any change in the provisions of this Indenture relating to waivers of past Defaults or the rights of Holders to receive payments of principal of, or interest or premium, if any, on the Notes, or Additional Amounts, if any;
- (7) waive a redemption payment with respect to any Note (it being understood that this clause (7) does not apply to a payment required by Sections 4.09 and 4.23; and it being further understood that this clause (7) does not apply to the covenants contained in Sections 4.13 and 4.21, which are covered by Section 9.02(c));
- (8) release any Guarantor from any of its obligations under its Guarantee or this Indenture, except in accordance with the terms of this Indenture, the Intercreditor Agreement or any applicable Additional Intercreditor Agreement;
- (9) release the Lien of the Security Agent for the benefit of the Trustee and Holders with respect to Collateral having a Fair Market Value in excess of \$10.0 million (other than by operation of the terms of this Indenture, the Security Documents, the Intercreditor Agreement and any Additional Intercreditor Agreements);
- (10) expressly subordinate in right of payment the Notes or the Guarantees to any other Indebtedness of the Issuer or any Guarantor; or
- (11) make any change to this Section 9.02.

(c) In addition, without the consent of the Issuer and Holders of at least 80% in principal amount of the Notes then outstanding (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Notes) an amendment, supplement or waiver may not amend, change or modify in any material respect the obligation of the Issuer to make and consummate a Collateral Sale Offer or a Total Loss Event Offer, as the case may be, or modify the provisions or definitions with respect thereto.

(d) It shall not be necessary for the consent of the Holders under this Section 9.02 to approve the particular form of any proposed amendment, supplement or waiver but it shall be sufficient if such consent approves the substance thereof.

(e) A consent to any amendment, supplement or waiver under this Indenture by any Holder given in connection with an exchange (in the case of an exchange offer) or a tender (in the case of a tender offer) of such Holder's Notes shall not be rendered invalid by such tender or exchange.

(f) After an amendment, supplement or waiver under this Section 9.02 becomes effective, the Issuer shall deliver electronically or mail to the Holders affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Issuer to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such amendment, supplement or waiver.

SECTION 9.03. [Reserved].

SECTION 9.04. Revocation and Effect of Consents.

(a) Until an amendment, waiver or supplement becomes effective, a consent to it by a Holder is a continuing consent by the Holder and every subsequent Holder of a Note or portion of a Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent is not made on any Note. However, any such Holder or subsequent Holder may revoke the consent as to his Note or portion of his Note by notice to the Trustee or the Issuer received before the date on which the Trustee and the Security Agent receives an Officer's Certificate certifying that the Holders of the requisite principal amount of Notes have consented (and not theretofore revoked such consent) to the amendment, supplement or waiver.

(b) The Issuer may, but shall not be obligated to, fix a record date for the purpose of determining the Holders entitled to consent to any amendment, supplement or waiver, which record date shall be prior to the first solicitation of such consent. If a record date is fixed, then notwithstanding the last sentence of Section 9.04(a), those Persons who were Holders at such record date (or their duly designated proxies), and only those Persons, shall be entitled to revoke any consent previously given, whether or not such Persons continue to be Holders after such record date. No such consent shall be valid or effective for more than 90 days after such record date. The Issuer shall inform the Trustee in writing of the fixed record date if applicable.

SECTION 9.05. Notation on or Exchange of Notes.

If an amendment, supplement or waiver changes the terms of a Note, the Issuer may require the Holder to deliver it to the Trustee. The Issuer shall provide the Trustee with an appropriate notation on the Note about the changed terms and cause the Trustee to return it to the Holder at the Issuer's expense. Alternatively, if the Issuer or the Trustee so determine, the Issuer in exchange for the Note shall issue, and the Trustee shall authenticate, a new Note that reflects the changed terms. Failure to make the appropriate notation or issue a new Note shall not affect the validity and effect of such amendment, supplement or waiver.

SECTION 9.06. Trustee and Security Agent To Sign Amendments, Etc.

(a) The Trustee and the Security Agent shall execute any amendment, supplement or waiver authorized pursuant to this Article Nine; *provided* that neither the Trustee nor the Security Agent shall be obligated to, execute any such amendment, supplement or waiver which affects the Trustee's or the Security Agent's own rights, duties, indemnities or immunities under this Indenture, the Intercreditor Agreement, any Additional Intercreditor Agreement or the Security Documents. The Trustee and the Security Agent shall each be entitled to receive, and, subject to Section 7.01 (solely with respect to the Trustee), shall be fully protected in conclusively relying upon, an Opinion of Counsel and an Officer's Certificate, each stating that the execution of any amendment, supplement or waiver authorized pursuant to this Article Nine is authorized or permitted by this Indenture, the Security Documents, the Intercreditor Agreement and any Additional Intercreditor Agreement. Such Opinion of Counsel shall be at the expense of the Issuer.

(b) Upon the execution of any amended or supplemental indenture pursuant to and in accordance with this Article Nine, this Indenture shall be modified in accordance therewith, and such amended or supplemental Indenture shall form a part of this Indenture for all purposes; and every Holder of Notes theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

ARTICLE TEN
NOTE GUARANTEE

SECTION 10.01. Unconditional Guarantee.

(a) Subject to the provisions of this Article Ten, each of the Guarantors hereby, jointly and severally, unconditionally and irrevocably guarantees to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of this Indenture, the Notes, the Intercreditor Agreement, any Additional Intercreditor Agreement or the Security Documents or the obligations of the Issuer to the Holders or the Trustee hereunder or thereunder: (a) (x) the due and punctual payment of the principal of, premium, if any, and interest, if any, on the Notes when and as the same shall become due and payable, whether at maturity, upon redemption or repurchase, by acceleration or otherwise, (y) the due and punctual payment of interest on the overdue principal and (to the extent permitted by law) interest, if any, on the Notes and (z) the

due and punctual payment and performance of all other obligations of the Issuer, in each case, to the Holders, the Security Agent or the Trustee hereunder or thereunder (including amounts due the Trustee under Section 7.07), all in accordance with the terms hereof and thereof (collectively, the “*Guarantee Obligations*”); and (b) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, the due and punctual payment and performance of the Guarantee Obligations in accordance with the terms of the extension or renewal, whether at maturity, upon redemption or repurchase, by acceleration or otherwise. Failing payment when due of any amount so guaranteed, or failing performance of any other obligation of the Issuer to the Holders under this Indenture, under the Notes or under any Security Document, for whatever reason, each Guarantor shall be obligated to pay, or to perform or cause the performance of, the same immediately. An Event of Default under this Indenture, the Notes or the Security Documents shall constitute an Event of Default under the Guarantees, and shall entitle the Holders to accelerate the obligations of the Guarantors thereunder in the same manner and to the same extent as the obligations of the Issuer.

(b) Each of the Guarantors hereby agrees that (to the extent permitted by law) its obligations hereunder shall be unconditional, irrespective of the validity, regularity or enforceability of the Notes, this Indenture, the Intercreditor Agreement, any Additional Intercreditor Agreement or the Security Documents, the absence of any action to enforce the same, any waiver or consent by any Holder with respect to any provisions hereof or thereof, any release of any other Guarantor, the recovery of any judgment against the Issuer, any action to enforce the same, whether or not a Guarantee is affixed to any particular Note, or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a Guarantor (other than payment). To the fullest extent permitted by law and subject to Section 6.06, each of the Guarantors hereby waives the benefit of diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Issuer, any right to require a proceeding first against the Issuer, protest, notice and all demands whatsoever and covenants that its Guarantee shall not be discharged except by complete performance of the obligations contained in the Notes, this Indenture, this Guarantee, the Intercreditor Agreement, any Additional Intercreditor Agreement and the Security Documents. This Guarantee is a guarantee of payment and not of collection. If any Holder, the Security Agent or the Trustee is required by any court or otherwise to return to the Issuer or to any Guarantor, or any custodian, trustee, liquidator or other similar official acting in relation to the Issuer or such Guarantor, any amount paid by the Issuer or such Guarantor to the Trustee or such Holder, this Guarantee, to the extent theretofore discharged, shall be reinstated in full force and effect. Each Guarantor further agrees that, as between it, on the one hand, and the Holders, the Security Agent, and the Trustee, on the other hand, (a) subject to this Article Ten, the maturity of the obligations guaranteed hereby may be accelerated as provided in Article Six for the purposes of this Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (b) in the event of any acceleration of such obligations as provided in Article Six, such obligations (whether or not due and payable) shall forthwith become due and payable by the Guarantors for the purpose of this Guarantee.

SECTION 10.02. Limitation on Guarantor Liability.

Each Guarantor, and by its acceptance of Notes, each Holder, hereby confirms that it is the intention of all such parties that the Guarantee of such Guarantor not constitute a fraudulent transfer or conveyance for purposes of Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal, foreign, provincial or state law to the extent applicable to any Guarantee. To effectuate the foregoing intention, the Trustee, the Security Agent, the Holders and the Guarantors hereby irrevocably agree (to the extent required by such laws) that the obligations of such Guarantor under its Guarantee and this Article Ten shall be limited to the maximum amount as will, after giving effect to all other contingent and fixed liabilities of such Guarantor that are relevant under such laws, and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under this Article Ten, result in the obligations of such Guarantor under its Guarantee not constituting a fraudulent transfer or conveyance. Each Guarantor that makes a payment for distribution under its Guarantee is entitled to a contribution from each other Guarantor in a *pro rata* amount based on the respective net assets of each Guarantor at the time of such payment determined in accordance with the Accounting Principles.

SECTION 10.03. Notation not Required.

(a) Neither the Issuer nor any Guarantor shall be required to make a notation on the Notes to reflect any Guarantee or any release, termination or discharge thereof.

(b) Each Guarantor agrees that the Guarantees set forth in Section 10.01 will remain in full force notwithstanding any failure to endorse on each Note a notation of such Guarantee.

SECTION 10.04. Release of a Guarantor.

(a) A Guarantor shall be automatically and unconditionally released from its obligations under its Guarantee and its obligations under this Indenture in accordance with Sections 4.16 or as otherwise expressly permitted by this Indenture, including Articles Five and Eight hereof.

(b) The Trustee and the Security Agent, as applicable, shall execute an appropriate instrument prepared by the Issuer evidencing the release of a Guarantor from its obligations under its Guarantee upon receipt of a request by the Issuer or such Guarantor accompanied by an Officer's Certificate and an Opinion of Counsel each stating that all conditions precedent provided in the Debt Documents relating to the release of the Guarantee have been complied with; *provided, however*, that the legal counsel delivering such Opinion of Counsel may rely as to matters of fact on one or more Officer's Certificates of the Issuer.

(c) Except as set forth in Articles Four and Five and this Section 10.04, nothing contained in this Indenture or in any of the Notes shall prevent any consolidation or merger of a Guarantor with or into the Issuer or another Guarantor or shall prevent any sale or conveyance of the property of a Guarantor as an entirety or substantially as an entirety to the Issuer or another Guarantor.

SECTION 10.05. Waiver of Subrogation.

Until this Indenture is discharged and all of the Notes are discharged and paid in full, each Guarantor hereby irrevocably waives (to the extent it may lawfully do so) and agrees not to exercise any claim or other rights which it may now or hereafter acquire against the Issuer that arise from the existence, payment, performance or enforcement of the Issuer's obligations under the Notes or this Indenture and such Guarantor's obligations under this Guarantee and this Indenture, in any such instance including, without limitation, any right of subrogation, reimbursement, exoneration, contribution, indemnification, and any right to participate in any claim or remedy of the Holders against the Issuer, whether or not such claim, remedy or right arises in equity, or under contract, statute or common law, including, without limitation, the right to take or receive from the Issuer, directly or indirectly, in cash or other assets or by set-off or in any other manner, payment or security on account of such claim or other rights. If any amount shall be paid to any Guarantor in violation of the preceding sentence and any amounts owing to the Trustee, the Security Agent or the Holders under the Notes, this Indenture, or any other document or instrument delivered under or in connection with such agreements or instruments, shall not have been paid in full, such amount shall have been deemed to have been paid to such Guarantor for the benefit of, and held in trust for the benefit of, the Trustee, the Security Agent or the Holders and shall forthwith be paid to the Trustee for the benefit of itself, the Security Agent or such Holders to be credited and applied to the obligations in favor of the Trustee, the Security Agent or the Holders, as the case may be, whether matured or unmatured, in accordance with the terms of this Indenture. Each Guarantor acknowledges that it shall receive direct and indirect benefits from the financing arrangements contemplated by this Indenture and that the waiver set forth in this Section 10.05 is knowingly made in contemplation of such benefits.

SECTION 10.06. Immediate Payment.

Each Guarantor agrees to make immediate payment to the Trustee on behalf of the Holders of all Guarantee Obligations owing or payable to the respective Holders upon receipt of a demand for payment therefor by the Trustee to such Guarantor in writing.

SECTION 10.07. No Set-Off.

Each payment to be made by a Guarantor hereunder in respect of the Guarantee Obligations shall be payable in the currency or currencies in which such Guarantee Obligations are denominated, and, to the fullest extent permitted by law, shall be made without set-off, counterclaim, reduction or diminution of any kind or nature.

SECTION 10.08. Guarantee Obligations Absolute.

The obligations of each Guarantor hereunder are and shall be absolute and unconditional and any monies or amounts expressed to be owing or payable by each Guarantor hereunder which may not be recoverable from such Guarantor on the basis of a Guarantee shall be recoverable from such Guarantor as a primary obligor and principal debtor in respect thereof.

SECTION 10.09. Guarantee Obligations Continuing.

The obligations of each Guarantor hereunder shall be continuing and shall remain in full force and effect until all such obligations have been paid and satisfied in full. Each Guarantor agrees with the Trustee that it shall, upon request by the Trustee or the Security Agent, deliver to the Trustee and the Security Agent suitable acknowledgments of this continued liability hereunder and under any other instrument or instruments relating to this Indenture.

SECTION 10.10. [Reserved].SECTION 10.11. Guarantee Obligations Reinstated.

The obligations of each Guarantor hereunder shall continue to be effective or shall be reinstated, as the case may be, if at any time any payment which would otherwise have reduced the obligations of any Guarantor hereunder (whether such payment shall have been made by or on behalf of the Issuer or by or on behalf of a Guarantor) is rescinded or reclaimed from any of the Holders upon the insolvency, bankruptcy, liquidation or reorganization of the Issuer or any Guarantor or otherwise, all as though such payment had not been made. If demand for, or acceleration of the time for, payment by the Issuer or any other Guarantor is stayed upon the insolvency, bankruptcy, liquidation or reorganization of the Issuer or such Guarantor, all such Indebtedness otherwise subject to demand for payment or acceleration shall nonetheless be payable by each Guarantor as provided herein.

SECTION 10.12. Guarantee Obligations Not Affected.

To the fullest extent permitted by law, the obligations of each Guarantor hereunder shall, subject to Section 10.04, not be affected, impaired or diminished in any way by any act, omission, matter or thing whatsoever, occurring before, upon or after any demand for payment hereunder (and whether or not known or consented to by any Guarantor or any of the Holders) which, but for this provision, might constitute a whole or partial defense to a claim against any Guarantor hereunder or might operate to release or otherwise exonerate any Guarantor from any of its obligations hereunder or otherwise affect such obligations, whether occasioned by default of any of the Holders or otherwise, including, without limitation:

- (a) any limitation of status or power, disability, incapacity or other circumstance relating to the Issuer or any other Person, including any insolvency, bankruptcy, liquidation, reorganization, readjustment, composition, dissolution, winding-up or other proceeding involving or affecting the Issuer or any other Person;
- (b) any irregularity, defect, unenforceability or invalidity in respect of any indebtedness or other obligation of the Issuer or any other Person under this Indenture, the Notes or any other document or instrument;
- (c) any failure of the Issuer or any other Guarantor, whether or not without fault on its part, to perform or comply with any of the provisions of this Indenture, the Notes or any Guarantee, or to give notice thereof to a Guarantor;

- (d) the taking or enforcing or exercising or the refusal or neglect to take or enforce or exercise any right or remedy from or against the Issuer or any other Person or their respective assets or the release or discharge of any such right or remedy;
- (e) the granting of time, renewals, extensions, compromises, concessions, waivers, releases, discharges and other indulgences to the Issuer or any other Person;
- (f) any change in the time, manner or place of payment of, or in any other term of, any of the Notes, or any other amendment, variation, supplement, replacement or waiver of, or any consent to departure from, any of the Notes or this Indenture, including, without limitation, any increase or decrease in the principal amount of or premium, if any, or interest on any of the Notes;
- (g) any change in the ownership, control, name, objects, businesses, assets, capital structure or constitution of the Issuer or a Guarantor;
- (h) any merger or amalgamation of the Issuer or a Guarantor with any Person or Persons other than as set forth in Article Five;
- (i) the occurrence of any change in the laws, rules, regulations or ordinances of any jurisdiction by any present or future action of any governmental authority or court amending, varying, reducing or otherwise affecting, or purporting to amend, vary, reduce or otherwise affect, any of the Guarantee Obligations or the obligations of a Guarantor under its Guarantee; and
- (j) any other circumstance, other than release of a Guarantor pursuant to Section 10.04, that might otherwise constitute a legal or equitable discharge or defense of the Issuer under this Indenture or the Notes or of a Guarantor in respect of its Guarantee hereunder.

SECTION 10.13. Waiver.

Without in any way limiting the provisions of Section 10.01, each Guarantor (to the extent it may lawfully do so) hereby waives notice of acceptance hereof, notice of any liability of any Guarantor hereunder, notice or proof of reliance by the Holders upon the obligations of any Guarantor hereunder, and diligence, presentment, demand for payment on the Issuer, protest, notice of dishonor or non-payment of any of the Guarantee Obligations, or other notice or formalities to the Issuer or any Guarantor of any kind whatsoever.

SECTION 10.14. No Obligation To Take Action Against the Issuer.

None of the Trustee, the Security Agent or any other Person shall have any obligation to enforce or exhaust any rights or remedies against the Issuer or any other Person or any property of the Issuer or any other Person before the Trustee is entitled to demand payment and performance by any or all Guarantors of their liabilities and obligations under their Guarantees or under this Indenture.

SECTION 10.15. Dealing with the Issuer and Others.

The Holders, without releasing, discharging, limiting or otherwise affecting in whole or in part the obligations and liabilities of any Guarantor hereunder and without the consent of or notice to any Guarantor, may

- (a) grant time, renewals, extensions, compromises, concessions, waivers, releases, discharges and other indulgences to the Issuer or any other Person;
- (b) take or abstain from taking security or collateral from the Issuer or from perfecting security or collateral of the Issuer;
- (c) release, discharge, compromise, realize, enforce or otherwise deal with or do any act or thing in respect of (with or without consideration) any and all collateral, mortgages or other security given by the Issuer or any third party with respect to the obligations or matters contemplated by this Indenture or the Notes;
- (d) accept compromises or arrangements from the Issuer;
- (e) apply all monies at any time received from the Issuer or from any security upon such part of the Guarantee Obligations as the Holders may see fit or change any such application in whole or in part from time to time as the Holders may see fit; and
- (f) otherwise deal with, or waive or modify their right to deal with, the Issuer and all other Persons and any security as the Holders may see fit.

SECTION 10.16. Default and Enforcement.

If any Guarantor fails to pay in accordance with Section 10.06 hereof, the Trustee may proceed in its name as trustee hereunder in the enforcement of the Guarantee of any such Guarantor and such Guarantor's obligations thereunder and hereunder by any remedy provided by law, whether by legal proceedings or otherwise, and to recover from such Guarantor the obligations.

SECTION 10.17. Acknowledgment.

Each Guarantor hereby acknowledges communication of the terms of this Indenture, the Notes and the Guarantees, consents to and approves of the same.

SECTION 10.18. Costs and Expenses.

Each Guarantor shall pay on demand by the Trustee or the Security Agent any and all properly incurred costs, fees and expenses (including, without limitation, properly incurred legal fees of counsel) incurred by the Trustee, the Security Agent or their respective agents, advisors and counsel or any of the Holders in enforcing any of their rights under any Guarantee.

SECTION 10.19. Cumulative Remedies.

No failure to exercise and no delay in exercising, on the part of the Trustee, the Security Agent or the Holders, any right, remedy, power or privilege hereunder or under this Indenture or the Notes, shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder or under this Indenture or the Notes preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges in the Guarantee and under this Indenture, the Notes and any other document or instrument between a Guarantor and/or the Issuer and the Trustee are cumulative and not exclusive of any rights, remedies, powers and privilege provided by law.

SECTION 10.20. Survival of Guarantee Obligations.

Without prejudice to the survival of any of the other obligations of each Guarantor hereunder, the obligations of each Guarantor under Section 10.01 shall survive the payment in full of the Guarantee Obligations and shall be enforceable against such Guarantor, to the fullest extent permitted by law, without regard to and without giving effect to any defense, right of offset or counterclaim available to or which may be asserted by the Issuer or any Guarantor.

SECTION 10.21. Guarantee in Addition to Other Guarantee Obligations.

The obligations of each Guarantor under its Guarantee and this Indenture are in addition to and not in substitution for any other obligations to the Trustee, the Security Agent or to any of the Holders in relation to this Indenture or the Notes and any guarantees or security at any time held by or for the benefit of any of them.

SECTION 10.22. Severability.

Any provision of this Article Ten which is prohibited or unenforceable in any jurisdiction shall not invalidate the remaining provisions and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction unless its removal would substantially defeat the basic intent, spirit and purpose of this Indenture and this Article Ten.

SECTION 10.23. Successors and Assigns.

Subject to the provisions herein relating to the release of Guarantees, each Guarantee shall be binding upon and inure to the benefit of each Guarantor and the Trustee, the Security Agent and the other Holders and their respective successors and permitted assigns.

**ARTICLE ELEVEN
SECURITY DOCUMENTS**

SECTION 11.01. Collateral and Security Documents.

(a) In order to secure the due and punctual payment of the principal of, premium, if any, and interest on the Notes and all other amounts payable by the Issuer and the Guarantors under this Indenture, the Notes and the Guarantees when and as the same shall be due and payable, whether at maturity, by acceleration or otherwise, according to the terms of the Notes, the Guarantees and this Indenture, the Issuer and each of the Vessel Guarantors have granted security interests in and Liens on the Collateral owned by it to the Security Agent on behalf of the Secured Parties pursuant to this Indenture, the Intercreditor Agreement and the Security Documents.

(b) Each Holder, by accepting a Note, consents and agrees to all of the terms, conditions and provisions of the Security Documents (including without limitation, provisions providing for release of Collateral), the Intercreditor Agreement and this Indenture, as the same may be amended from time to time pursuant to the provisions of the Security Documents, the Intercreditor Agreement and this Indenture and directs the Security Agent to sign these documents.

(c) Unless an Event of Default shall have occurred and be continuing, the Issuer or the applicable Vessel Guarantor will have the right to remain in possession and retain exclusive control of the Collateral securing the Notes or the Guarantee of such Guarantor (other than the Equity Interests of the Vessel Guarantors and other than as set forth in the Security Documents), to freely operate or use the Collateral, to alter, maintain or repair the Collateral in the ordinary course, and to collect, invest and dispose of any income thereon. In addition, unless an Event of Default shall have occurred and be continuing, the Issuer and any Vessel Guarantor may amend, modify, supplement, replace, extend, renew or waive any term of, or terminate, or take any other action with respect to any assigned rights, property or contracts comprising the Collateral to the extent not otherwise prohibited by the terms of this Indenture, including Section 4.14.

SECTION 11.02. Recording, Etc.

(a) The Issuer and the Vessel Guarantors shall take or cause to be taken, within the time period permitted in this Indenture or the Security Documents, all action reasonably necessary or required to perfect, maintain, preserve and protect the Security Interests in the Collateral granted by the Security Documents, including, but not limited to, causing all financing statements (it being understood that, as of the Issue Date, no financing statements are necessary or required to be filed in any state of the United States or the District of Columbia to perfect the Security Interests in the Collateral (as in existence on the Issue Date) granted by the Security Documents) and other instruments of further assurance, including, without limitation, continuation statements covering security interests in personal property to be promptly recorded, registered and filed, and at all times to be kept recorded, registered and filed, and shall execute and file such financing statements and cause to be issued and filed such continuation statements,

all in such manner and in such places as may be required by law fully to preserve and protect the rights of the Holders, the Trustee and the Security Agent under this Indenture and the Security Documents to all property comprising the Collateral.

(b) The Issuer and the Vessel Guarantors shall from time to time, within the time period permitted in this Indenture or the Security Documents, promptly pay and discharge all mortgage and financing and continuation statement recording and/or filing fees, charges and taxes relating to this Indenture and the Security Documents, any amendments thereto and any other instruments of further assurance.

(c) The Issuer shall furnish to the Trustee and Security Agent (i) at the time of execution and delivery of this Indenture, Opinion(s) of Counsel to the effect that, in the opinion of such counsel, this Indenture and the grant of a Security Interest in the Collateral intended to be made by each Security Document (other than the ship mortgages) and all other instruments of further assurance or assignment have been properly recorded and filed to the extent necessary to perfect the Security Interests created by each such Security Document and reciting the details of such action; and (ii) within 30 calendar days of the Issue Date, Opinions of Counsel to the effect that, in the opinion of such counsel, the grant of a Security Interest in the Collateral intended to be made by each ship mortgage over each Existing Mortgaged Vessel and all other instruments of further assurance or assignment have been properly recorded and filed to the extent necessary to perfect the Security Interests created by each such Security Document and reciting the details of such action. For the avoidance of doubt, such Opinion(s) of Counsel may contain qualifications and assumptions in respect of acknowledgements that are not required to be delivered in accordance with Section 11.09, in addition to customary assumptions and qualifications.

SECTION 11.03. Disposition of Collateral Without Release.

(a) Notwithstanding the provisions of Section 11.04, so long as no Event of Default shall have occurred and be continuing, the Issuer or any Vessel Guarantor may, in accordance with the provisions of this Indenture, without any release or consent by the Trustee or the Security Agent:

(A) sell or otherwise dispose of any machinery, equipment, furniture, tools, materials or supplies or other similar property subject to the Lien of the Security Documents, which may have become worn out or obsolete;

(B) grant rights-of-way and easements over or in respect of any real property; *provided, however,* that such grant will not, in the reasonable opinion of the Board of Directors of the Issuer or the relevant Vessel Guarantor, as the case may be, materially impair the usefulness of such property in the conduct of the Issuer's business and will not be materially prejudicial to the interests of the Holders;

(C) abandon, terminate, cancel, release, extend, renew, replace, amend or modify any leases, contracts or rights-of-way subject to the Lien of any of the Security Documents or surrender or modify any franchise, license or permit subject to the Lien of any of the Security Documents which it may own or under which it may be operating;

(D) alter, repair, replace, change the location or position of and add to its plants, structures, machinery, systems, equipment, fixtures and appurtenances;

(E) demolish, dismantle, tear down or scrap any Collateral (other than the Mortgaged Vessels), or abandon any thereof (other than the Mortgaged Vessels), if in the good faith opinion of the Issuer or the relevant Vessel Guarantor, as the case may be, such demolition, dismantling, tearing down, scrapping or abandonment is in the interests of the Issuer or the relevant Vessel Guarantor, as the case may be, and the Fair Market Value and utility of the Collateral as an entirety will not thereby be impaired in any material respect; or

(F) apply insurance proceeds received under such circumstances other than a Total Loss Event to the repair of the Mortgaged Vessel to which such insurance proceeds related in accordance with the Security Documents.

(b) In the event that the Issuer or any Vessel Guarantor has sold, exchanged or otherwise disposed of or proposes to sell, exchange or otherwise dispose of any portion of the Collateral which under the provisions of this Section 11.03 may be sold, exchanged or otherwise disposed of by the Issuer or such Vessel Guarantor without any release or consent of the Trustee or the Security Agent, and the Issuer or such Vessel Guarantor, as the case may be, requests the Security Agent to furnish a written disclaimer, release or quitclaim of any interest in such property under any of the Security Documents, the Security Agent shall, at the cost and expense of the Issuer and the Vessel Guarantor, promptly execute such an instrument upon delivery to the Trustee and the Security Agent of (i) an Officer's Certificate by the Issuer or such Vessel Guarantor, as the case may be, (A) reciting the sale, exchange or other disposition made or proposed to be made and describing in reasonable detail the property affected thereby, and stating that such property is property which by the provisions of this Section 11.03 may be sold, exchanged or otherwise disposed of or dealt with by the Issuer or such Vessel Guarantor, as the case may be, without any release or consent of the Trustee or the Security Agent, and (B) that all conditions precedent provided in this Indenture, the Guarantees, the Notes and the Security Documents relating to the written disclaimer, release or quitclaim of any interest in such property have been complied with, and (ii) an Opinion of Counsel stating that (A) the sale, exchange or other disposition made or proposed to be made was duly taken by the Issuer or such Vessel Guarantor, as the case may be, in conformity with a designated subsection of Section 11.03(a) and that the execution of such written disclaimer, release or quitclaim is appropriate under this Section 11.03, and (B) that all conditions precedent provided in this Indenture, the Guarantees, the Notes and the Security Documents relating to the written disclaimer, release or quitclaim of any interest in any such property have been complied with.

(c) Any disposition of Collateral made in compliance with the provisions of this Section 11.03 shall be deemed not to impair the Security Interests in contravention of the provisions of this Indenture.

(d) Any such disclaimer, release or quitclaim shall be without recourse to, or any representation or warranty by, the Trustee or the Security Agent.

SECTION 11.04. Release of Collateral.

(a) The Issuer and each Vessel Guarantor shall have the right to sell, exchange or otherwise dispose of any of the Collateral owned by it, upon compliance with the requirements and conditions of this Section 11.04, and the Security Agent shall release the same from the Lien of this Indenture and the Security Documents, as the case may be, upon receipt by the Trustee and the Security Agent of a direction from the Issuer and any applicable Vessel Guarantor directing such release and describing the property to be so released, together with delivery of the following:

(A) an Officer's Certificate of the Issuer or the relevant Vessel Guarantor, as the case may be, dated the date of the application for such release, in each case stating in substance the following:

- (i) the release complies with Section 4.13, Section 4.21, this Section 11.04 and Section 11.09, as applicable;
- (ii) no Default or Event of Default has occurred and is continuing (unless the holders of a majority in aggregate principal amount of the outstanding Notes have consented to such action); and
- (iii) all conditions precedent in this Indenture, the Intercreditor Agreement, any Additional Intercreditor Agreement and the Security Documents relating to the release of the Collateral in question have been complied with; and

(B) one or more Opinions of Counsel which, when considered collectively, shall be substantially to the effect that all conditions precedent provided in this Indenture, the Intercreditor Agreement, any Additional Intercreditor Agreement and the Security Documents relating to the release of the Collateral have been complied with.

(b) In connection with any release, the Issuer and the Vessel Guarantors shall (i) execute, deliver and record or file and obtain such instruments as may be required, including, without limitation, amendments to the Security Documents and (ii) deliver to the Security Agent and the Trustee evidence of the satisfaction of the applicable provisions of this Indenture, the Intercreditor Agreement and the Security Documents as set forth in this Indenture, the Intercreditor Agreement and the Security Documents.

(c) For the avoidance of doubt, the release of Collateral may be made prior to the consummation of any sale, exchange or other disposition of such Collateral, *provided* that such transaction otherwise complies with Section 4.13, Section 4.21, this Section 11.04 and Section 11.09, as applicable.

(d) Notwithstanding any provision of this Section 11.04 to the contrary, any Collateral may be released in accordance with an enforcement action pursuant to the provisions of the Intercreditor Agreement or any Additional Intercreditor Agreement.

(e) The Security Agent and the Trustee (but only if required) shall take all reasonable actions requested by the Issuer that are necessary to effectuate any release of Collateral securing the Notes and the Guarantees, in accordance with the provisions of this Indenture, the Intercreditor Agreement or any Additional Intercreditor Agreement and the relevant Security Document. Each of the releases set forth in this Section 11.04 shall be effected by the Security Agent without the consent of the Holders or any action on the part of the Trustee (unless action is required by it to effectuate release).

(f) Any releases of Collateral made in compliance with the provisions of this Section 11.04 shall be deemed not to impair the Security Interests created by this Indenture or the Security Documents, as the case may be, in favor of the Security Agent on behalf of the Trustee or the Holders of the Notes or any Additional Notes, in contravention of the provisions of this Indenture.

(g) The foregoing provisions shall not permit the Security Agent to release or grant any waivers or otherwise take any action with respect to releasing the Liens of any Secured Party under the Intercreditor Agreement other than the Trustee and the Holders over any Collateral securing liabilities owed to any such Secured Parties (and any such release, waiver or action shall be governed by the Debt Documents applicable to such Secured Parties, the Intercreditor Agreement and any Additional Intercreditor Agreement), and the Security Agent may refrain without liability from any action requested hereunder if it has not been authorized to take such action by the terms of such Debt Documents or the relevant Secured Parties, to the extent applicable (as determined by the Security Agent).

SECTION 11.05. [Reserved].

SECTION 11.06. Suits to Protect the Collateral.

Following an Event of Default, subject to the provisions of the Intercreditor Agreement and the Security Documents, the Security Agent shall have the power but not the obligation (upon notice to the Trustee) to institute and to maintain such suits and proceedings to prevent any impairment of the Collateral by any acts which may be unlawful or in violation of any of the Security Documents or this Indenture, and such suits and proceedings to preserve or protect its interests and the interests of the Holders in the Collateral (including power to institute and maintain suits or proceedings to restrain the enforcement of or compliance with any

legislative or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid if the enforcement of, or compliance with, such enactment, rule or order would impair the Security Interests or be prejudicial to the interests of the Holders, the Trustee or the Security Agent).

SECTION 11.07. Purchaser Protected.

In no event shall any purchaser in good faith of any property purported to be released hereunder be bound to ascertain the authority of the Security Agent to execute the release or to inquire as to the existence or satisfaction of any conditions required by the provisions hereof for the exercise of such authority; nor shall any purchaser or other transferee of any property or rights permitted by this Article Eleven to be sold or otherwise disposed of by the Issuer or a Vessel Guarantor be under obligation to ascertain or inquire into the authority of the Issuer or any applicable Vessel Guarantor to make any such sale or other transfer.

SECTION 11.08. Powers Exercisable by Receiver or Trustee.

In case the Collateral owned by the Issuer or any Vessel Guarantor shall be in the possession of a receiver or trustee, lawfully appointed, the powers conferred in this Article Eleven, the Intercreditor Agreement and the Security Documents upon the Issuer and the Vessel Guarantors with respect to the release, sale or other disposition of such property may be exercised by such receiver or trustee, and an instrument signed by such receiver or trustee shall be deemed the equivalent of any similar instrument of the Issuer or the relevant Vessel Guarantor, as the case may be, or of any officer or officers thereof required by the provisions of this Article Eleven.

SECTION 11.09. Addition and Substitution of Collateral; Designation as a Mortgaged Vessel.

(a) The Issuer or any Vessel Guarantor may at its option, at any time and from time to time, substitute Collateral for Mortgaged Vessels of an aggregate equivalent or greater Fair Market Value (as assessed on a like-for-like basis), including without limitation in connection with any refinancing transaction, or add further Mortgaged Vessels to the Collateral; *provided* that (i) in the case of a substitution only, at the time of such substitution no Default or Event of Default shall have occurred and be continuing and (ii) such substitution or addition shall comply with this Section 11.09.

(b) If the Issuer or any Subsidiary:

(1) provides security over additional assets which will constitute Collateral in accordance with the provisions of this Indenture and the Intercreditor Agreement or any Additional Intercreditor Agreement; or

(2) elects to substitute Collateral with other assets that become Collateral or to apply any Net Proceeds or Total Loss Event Proceeds from disposals or losses of Collateral to acquire other assets that become Collateral, in each case in accordance with the applicable provisions of this Indenture,

(c) then within 10 Business Days of the date on which such additional or other assets are received, acquired, added or substituted, the Issuer or the Subsidiary that is the owner of such assets, shall, if it is not already a Vessel Guarantor, execute a Guarantee of the Notes and become a Vessel Guarantor under this Indenture (and must be or become a Wholly Owned Subsidiary of the Issuer at such time) and it shall provide security over such additional or other assets similar in material respects to the security provided with respect to the Collateral on the Issue Date, including, in the case of a Vessel, (i) a first-priority ship mortgage and (if relevant under applicable law) deed of covenant with respect to such Vessel substantially in the form required by this Indenture or otherwise in a customary form for the relevant jurisdiction (such ship mortgage having been duly received for recording in the appropriate registry office); (ii) a first-priority share pledge or charge (entered into by the Issuer or the Subsidiary that is the parent of such Vessel Guarantor) granting security over all the shares of such Vessel Guarantor and substantially in the form required by this Indenture or otherwise in a customary form for the relevant jurisdiction, together with relevant letter of resignation and authority to appoint new board members; (iii) first priority deeds of assignment granted by such Vessel Guarantor in respect of charters (in effect at the time or subsequently entered into), related guarantees (other than with respect to the *OOCL Ningbo*), if any, ship management agreements, insurances, charter earnings and requisition compensation relating to its Vessel, including, in respect of charters, only those charters with a fixed term at the time such security is granted exceeding six months (after giving effect to any optional extensions thereto, as if such extensions were exercised), in each case in force on the date of the deed of assignment, *provided* that each Vessel Guarantor shall use commercially reasonable endeavors to obtain any outstanding consents from third parties to the assignment of such charters and other agreements being assigned if those agreements cannot be assigned without consent; (iv) first priority account pledges or charges over such Vessel Guarantor's earnings account granted by such Vessel Guarantor; and (v) first priority deeds of assignment or pledges over any intra-group loans (a) from the Issuer to such Vessel Guarantor or (b) from such Vessel Guarantor to the Issuer or any other Subsidiary of the Issuer. The Issuer shall also deliver (x) to the Trustee an Officer's Certificate certifying as to the ownership of such Vessel and as to the compliance with the terms of this Indenture, the Intercreditor Agreement, any Additional Intercreditor Agreement and the Security Documents and (y) to the Trustee and Security Agent and (y) an Opinion of Counsel with respect to perfection of the security interest in such additional or substitute Collateral.

(d) Notwithstanding the foregoing, unless an Event of Default shall have occurred and be continuing, the Issuer or the relevant Vessel Guarantor may amend, modify, supplement, replace, extend, renew or waive any term of, or terminate, or take any other action with respect to any assigned rights, property or contracts comprising the Collateral to the extent not otherwise prohibited by the terms of this Indenture, including Section 4.14. Notwithstanding the foregoing, unless an Event of Default shall have occurred and be continuing, the Issuer may amend, modify, supplement, replace, extend, renew or waive any term of, or terminate, or take any other action with respect to any assigned right, assigned property and assigned contract comprising the Collateral to the extent not otherwise prohibited by the terms of this Indenture, including Section 4.14.

SECTION 11.10. Determinations Relating to Collateral.

In the event (i) the Trustee or the Security Agent shall receive any written request from the Issuer or any Vessel Guarantor under any Security Document for consent or approval with respect to any matter or thing relating to any Collateral or the obligations of the Issuer or such Vessel Guarantor with respect thereto or (ii) there shall be required from the Security Agent under the provisions of any Security Document any performance or the delivery of any instrument or (iii) the Trustee or the Security Agent shall become aware of any nonperformance by the Issuer or any Vessel Guarantor of any covenant or any breach of any representation or warranty of the Issuer or such Vessel Guarantor set forth in any Security Document, then, in each such event, the Security Agent shall be entitled (but not obligated) (upon notice to the Trustee) at the expense of the Issuer to hire experts, consultants, agents and attorneys (including, without limitation, those with appropriate experience and qualifications in all aspects of shipping, including operations and finance) to advise the Security Agent on the manner in which the Security Agent should respond to such request or render any requested performance or response to such nonperformance or breach or to act on its behalf, including without limitation, in connection with Collateral located outside the United States. The Security Agent shall be fully protected in the taking of any action recommended or approved by any such expert, consultant, agent or attorney or agreed to by a majority of Holders pursuant to Section 6.05 and for any action taken by such consultant, agent or attorney.

SECTION 11.11. Release upon Termination of the Issuer's Obligations.

In the event that the Issuer delivers an Officer's Certificate certifying that all of their obligations under this Indenture have been satisfied and discharged by complying with the provisions of Article Eight and the Intercreditor Agreement, the Security Interests in favor of the Trustee and the Holders shall automatically terminate, be released and have no further force and effect and the Security Agent shall not be deemed to hold the Security Interests for the benefit of the Trustee and the Holders and shall, at the expense of the Issuer and the Vessel Guarantors, promptly deliver such releases of the Security Interest as may be reasonably requested by the Issuer.

SECTION 11.12. [Reserved].SECTION 11.13. [Reserved].SECTION 11.14. [Reserved].SECTION 11.15. Appointment of Security Agent and Supplemental Security Agents.

(a) The parties hereto acknowledge and agree, and each Holder by accepting the Notes, hereby appoints Citibank, N.A., London Branch to act as Security Agent hereunder, and Citibank, N.A., London Branch accepts such appointment. The Trustee and the Holders acknowledge that the Security Agent will be acting in respect to the Security Documents and the security granted thereunder on the terms outlined therein and in the Intercreditor Agreement. Notwithstanding anything to the contrary in any Security Document, in the event of any conflict between any provision set forth in any Security Document and any provision of this Indenture

that affects any rights, privileges, protections and indemnities in favor of the Security Agent, such provision set forth in this Indenture shall prevail. Notwithstanding anything to the contrary in any Security Document or this Indenture, in the event of any conflict between any provision set forth in any Security Document or this Indenture on one hand and the Intercreditor Agreement on the other hand that affects any rights, privileges, protections and indemnities in favor of the Security Agent, such provision set forth in the Intercreditor Agreement shall prevail.

SECTION 11.16. Acts of Holders.

(a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee and, where it is hereby expressly required, to the Issuer. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the “act” of Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and conclusive in favor of the Trustee and the Issuer, if made in the manner provided in this Article Eleven.

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to such officer the execution thereof. Where such execution is by a signer acting in a capacity other than such signer’s individual capacity, such certificate or affidavit shall also constitute sufficient proof of such signer’s authority. The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner which the Trustee deems sufficient.

SECTION 11.17. Rights and Protections of the Security Agent.

(a) The Security Agent shall be entitled to: (i) the same rights and protections in this Indenture as are afforded to the Trustee under this Indenture (*provided, however,* that any reference to “negligence” with respect to the Trustee shall be deemed to be a reference to “gross negligence” with respect to the Security Agent) and (ii) the same rights, protections, indemnities and immunities in this Indenture as are afforded to the Security Agent in the Intercreditor Agreement as if such rights, protections, indemnities and immunities were specifically set forth herein.

(b) To secure the Issuer’s payment obligations in Clause 21 and Clause 22.1 of the Intercreditor Agreement, the Security Agent shall have a Lien prior to the Notes against all money or property held or collected by the Security Agent, in its capacity as Security Agent, except money or property held in trust to pay principal and interest on particular Notes.

(c) In no event shall the Security Agent have any fiduciary relationship with the Holders or the Trustee and no implied covenants, obligations or responsibilities shall be read into this Indenture, the Intercreditor Agreement or the Security Documents against the Security Agent.

SECTION 11.18. Resignation or Replacement of Security Agent.

(a) Any resignation or replacement of the Security Agent shall be made in accordance with the Intercreditor Agreement.

SECTION 11.19. Intercreditor Agreement and Additional Intercreditor Agreement(s).

(a) The Issuer, the Trustee and the Security Agent are authorized (without any further consent of the Holders) to enter into the Intercreditor Agreement and, if applicable, any Additional Intercreditor Agreement to give effect to the provisions of this Indenture. Each Holder of Notes and any Additional Notes, by accepting such Note, will be deemed to have:

(1) appointed and authorized the Security Agent and the Trustee to give effect to the provisions in the Intercreditor Agreement, any Additional Intercreditor Agreements and the Security Documents;

(2) agreed to be bound by the provisions of the Intercreditor Agreement, any Additional Intercreditor Agreements and the Security Documents; and

(3) irrevocably appointed the Security Agent and the Trustee to act on its behalf to enter into and comply with the provisions of the Intercreditor Agreement, any Additional Intercreditor Agreements and the Security Documents.

(b) At the request of the Issuer, in connection with the incurrence by the Issuer or its Subsidiaries of any Permitted Refinancing Indebtedness in compliance with the provisions of this Indenture, the Issuer, the relevant Subsidiaries, the agent under the New Term Loan Facility, the Trustee and the Security Agent shall enter into with the holders of such Indebtedness (or their duly authorized representatives) an intercreditor agreement (an "*Additional Intercreditor Agreement*") or a restatement, amendment or other modification of the existing Intercreditor Agreement on substantially the same terms as the Intercreditor Agreement (or terms not materially less favorable to the Holders), including containing substantially the same terms with respect to release of Guarantees and priority and release of the Security Interests under the Security Documents; *provided* that such Additional Intercreditor Agreement will not impose any personal obligations on the Trustee or Security Agent or, in the opinion of the Trustee or Security Agent, as applicable, adversely affect the rights, duties, liabilities or immunities of the Trustee or Security Agent under this Indenture or the Intercreditor Agreement.

(c) In addition, at the direction of the Issuer and without the consent of Holders, the Trustee and the Security Agent shall from time to time enter into one or more amendments to any Intercreditor Agreement or Additional Intercreditor Agreement to:

- (1) cure any ambiguity, omission, defect, manifest error or inconsistency of any such agreement;
- (2) increase the amount or types of Indebtedness covered by any such agreement that may be incurred by the Issuer or any Subsidiary that is subject to any such agreement (including with respect to any Intercreditor Agreement or Additional Intercreditor Agreement, the addition of provisions relating to new Indebtedness ranking junior in right of payment to the Notes);
- (3) add Subsidiaries to the Intercreditor Agreement or an Additional Intercreditor Agreement;
- (4) further secure the Notes (including Additional Notes);
- (5) make provision for equal and ratable pledges of the Collateral to secure Additional Notes;
- (6) implement any Permitted Liens;
- (7) amend the Intercreditor Agreement or any Additional Intercreditor Agreement in accordance with the terms thereof; or
- (8) make any other change to any such agreement that does not adversely affect the Holders in any material respect,

making all necessary provisions to ensure that the Notes and the Guarantees are secured by first-ranking Liens over the Collateral, that Indebtedness under the New Term Loan Facility is senior to the Notes and the Guarantees from the proceeds of the enforcement of the Collateral and all other necessary provisions regarding voting, enforcement or other matters that are based on the Intercreditor Agreement and with such further modifications as would not be materially prejudicial to the interests of the Holders.

(d) The Issuer shall not otherwise direct the Trustee or the Security Agent to enter into any amendment to any Intercreditor Agreement or Additional Intercreditor Agreement without the consent of the Holders of the majority in aggregate principal amount of the Notes then outstanding, except as otherwise permitted under Article Nine, and the Issuer may only direct the Trustee and the Security Agent to enter into any amendment to the extent such amendment does not impose any personal obligations on the Trustee or Security Agent or, in the opinion of the Trustee or Security Agent, adversely affect their respective rights, duties, liabilities or immunities under this Indenture or the Intercreditor Agreement or any Additional Intercreditor Agreement. In connection with any such amendment to the Intercreditor Agreement or Additional Intercreditor Agreement, the Trustee and the Security Agent shall be entitled to

receive and conclusively rely upon, an Officer's Certificate and an Opinion of Counsel each stating that such amendment is authorized or permitted by the terms of this Indenture, the Intercreditor Agreement, the Additional Intercreditor Agreement (if applicable) and the Security Documents, and that all conditions precedent provided in this Indenture, the Intercreditor Agreement, the Additional Intercreditor Agreement (if applicable) and the Security Documents relating to the execution and delivery of such amendment have been complied with.

(e) In relation to any Intercreditor Agreement or Additional Intercreditor Agreement, the Trustee (and Security Agent, if applicable) shall consent on behalf of the Holders to the payment, repayment, purchase, repurchase, defeasance, acquisition, retirement or redemption of any obligations subordinated to the Notes thereby; *provided, however*, that such transaction would otherwise comply with the provisions of this Indenture. In connection with providing any such consent, the Trustee and the Security Agent shall be entitled to receive and may conclusively rely upon, an Officer's Certificate and an Opinion of Counsel each stating that all conditions precedent provided in this Indenture, the Intercreditor Agreement, the Additional Intercreditor Agreement (if applicable) and the Security Documents relating to such consent have been complied with.

(f) The Issuer shall make copies of the Intercreditor Agreement or any Additional Intercreditor Agreement available for inspection during normal business hours on any Business Day upon prior written request at the Issuer's offices.

**ARTICLE TWELVE
[RESERVED].**

**ARTICLE THIRTEEN
MISCELLANEOUS**

SECTION 13.01. [Reserved].

SECTION 13.02. Notices.

(a) Any notices or other communications required or permitted hereunder shall be in English and in writing, and shall be sufficiently given if made by hand delivery, by nationally recognized overnight courier service, by registered or certified mail, postage prepaid, return receipt requested or by electronic delivery, addressed as follows:

if to the Issuer or a Guarantor:

c/o Global Ship Lease, Inc.
Portland House
Stag Place
London SW1E 5RS
United Kingdom
Attn: Chief Financial Officer & Chief Commercial Officer
Telephone: +44 (0) 20 7869 5104
Email: notices@globalshiplease.com

with a copy to:

Simpson Thacher & Bartlett LLP
425 Lexington Avenue
New York, New York 10017
United States of America
Attn: Lesley Peng
Telephone: +1 (212) 455 2000
Facsimile: +1 (212) 455 2502

if to the Trustee, Security Agent, Paying Agent, Registrar or Transfer Agent:

Citibank, N.A., London Branch
6th Floor, Citigroup Centre
Canada Square
London E14 5LB
United Kingdom
Attn: Agency and Trust
If to the Trustee or Security Agent:
Facsimile: +44(0)20 7500 5877
If to the Paying Agent, Registrar or Transfer Agent:
Facsimile: +353 1 622 2210

(b) Each of the Issuer, each Guarantor, the Trustee and the Security Agent by written notice to each other such Person may designate additional or different addresses for notices to such Person. Any notice or communication to the Issuer, the Trustee and the Security Agent, shall be deemed to have been given or made as of the date so delivered if personally delivered or delivered electronically when replied to; when receipt is acknowledged, if telecopied; five (5) calendar days after mailing if sent by registered or certified mail, postage prepaid (except that a notice of change of address shall not be deemed to have been given until actually received by the addressee); and next Business Day if by nationally recognized overnight courier service.

(c) Any notice or communication mailed to a Holder shall be mailed to him or her by first class mail or other equivalent means at his or her address as it appears on the registration books of the Registrar and shall be sufficiently given to him or her if so mailed within the time prescribed.

(d) Failure to mail a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders. If a notice or communication is mailed in the manner provided above, it is duly given, whether or not the addressee receives it.

(e) Where this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance on such waiver.

(f) In case by reason of the suspension of regular mail service or by reason of any other cause it shall be impracticable to give such notice by mail, then such notification as shall be made with the approval of the Trustee shall constitute a sufficient notification for every purpose hereunder.

SECTION 13.03. [Reserved].

SECTION 13.04. Certificate and Opinion as to Conditions Precedent.

Upon any request or application by the Issuer to the Trustee or the Security Agent to take any action under this Indenture, the Issuer shall furnish to the Trustee or the Security Agent, as applicable (unless otherwise agreed by the Trustee or the Security Agent, as the case may be):

(1) an Officer's Certificate, in form and substance reasonably satisfactory to the Trustee or the Security Agent, as applicable, stating that, in the opinion of the signers, all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with; and

(2) an Opinion of Counsel stating that, in the opinion of such counsel (who may rely upon Officer's Certificates as to matters of fact), all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with; *provided, however*, that such opinion shall not be required in connection with the initial issuance of the Notes hereunder.

SECTION 13.05. Statements Required in Certificate or Opinion.

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture, other than the Officer's Certificate required by Section 4.06, shall include, to the extent requested by the Trustee or the Security Agent:

(1) a statement that the Person making such certificate or opinion has read such covenant or condition;

(2) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(3) a statement that, in the opinion of such Person, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with or satisfied; and

(4) a statement as to whether or not, in the opinion of each such Person, such condition or covenant has been satisfied or complied with; *provided, however*, that with respect to matters of fact, an Opinion of Counsel may rely on an Officer's Certificate or certificates of public officials.

SECTION 13.06. Rules by Paying Agent or Registrar.

The Paying Agent or Registrar may make reasonable rules and set reasonable requirements for their functions.

SECTION 13.07. Legal Holidays.

If a payment date is not a Business Day, payment may be made on the next succeeding day that is a Business Day without the accrual of additional interest in the intervening period.

SECTION 13.08. Governing Law; Waiver of Jury Trial; Submission to Jurisdiction.

THIS INDENTURE, THE NOTES AND THE NOTE GUARANTEES SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT GIVING EFFECT TO CONFLICTS OF LAW PRINCIPLES TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY. EACH OF THE ISSUER, THE GUARANTORS, THE TRUSTEE AND THE SECURITY AGENT HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Any legal suit, action or proceeding arising out of or based upon this Indenture, the Notes, the Guarantees or the transactions contemplated hereby may be instituted in the federal courts of the United States of America located in the City of New York or the courts of the State of New York in each case located in the Borough of Manhattan (collectively, the "*Specified Courts*"), and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of any process, summons, notice or document by mail (to the extent allowed under any applicable statute or rule of court) to such party's address set forth in Section 13.02 shall be effective service of process for any suit, action or other proceeding brought in any such court. The parties irrevocably and unconditionally waive any objection to the laying of venue of any suit, action or other proceeding in the Specified Courts and irrevocably and unconditionally waive and agree not to plead or claim in any such court that any suit, action or other proceeding has been brought in an inconvenient forum.

SECTION 13.09. No Adverse Interpretation of Other Agreements.

This Indenture may not be used to interpret another indenture, loan or debt agreement of any of the Issuer or any of their Subsidiaries. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

SECTION 13.10. No Personal Liability of Directors, Officers, Employees and Stockholders.

No past, future or present director, Officer, employee, incorporator, member, manager, agent or shareholder of the Issuer or any Guarantor, as such, shall have any liability for any obligations of the Issuer or any Guarantors under the Notes, this Indenture, the Guarantees or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability to the fullest extent permitted by law. Such waiver and release are part of the consideration for issuance of the Notes and the Guarantees.

SECTION 13.11. Successors.

All agreements of the Issuer and the Guarantors in this Indenture, the Notes and the Guarantees shall bind their respective successors. All agreements of the Trustee in this Indenture shall bind its successor.

SECTION 13.12. Duplicate Originals.

All parties may sign any number of copies of this Indenture. Each signed copy or counterpart shall be an original, but all of them together shall represent the same agreement.

SECTION 13.13. Severability.

To the extent permitted by applicable law, in case any one or more of the provisions in this Indenture, in the Notes or in the Guarantees shall be held invalid, illegal or unenforceable, in any respect for any reason, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions shall not in any way be affected or impaired thereby, it being intended that all of the provisions hereof shall be enforceable to the full extent permitted by law.

SECTION 13.14. Force Majeure.

In no event shall the Trustee or the Security Agent be liable for any failure or delay in the performance of its obligations under this Indenture, the Notes, the Guarantees, the Security Documents, the Intercreditor Agreement, any Additional Intercreditor Agreement or any related documents because of circumstances beyond the Trustee's or the Security Agent's control, including, but not limited to, a failure, termination, or suspension of a clearing house, securities depository, settlement system or central payment system in any applicable part of the world or acts of God, flood, war (whether declared or undeclared), civil or military disturbances or hostilities, nuclear or natural catastrophes, political unrest, explosion, severe weather or

accident, earthquake, terrorism, fire, riot, labor disturbances, strikes or work stoppages for any reason, embargo, government action, including any laws, ordinances, regulations or the like (whether domestic, federal, state, county or municipal or foreign) which delay, restrict or prohibit the providing of the services contemplated by this Indenture, the Notes, the Guarantees, the Security Documents, the Intercreditor Agreement, any Additional Intercreditor Agreement or any related documents, or the unavailability of communications or computer facilities, the failure of equipment or interruption of communications or computer facilities, or the unavailability of the Federal Reserve Bank wire or telex or other wire or communication facility, or any other causes beyond the Trustee's or the Security Agent's control whether or not of the same class or kind as specified above.

SECTION 13.15. Agent for Service; Submission to Jurisdiction; Waiver of Immunities.

(a) The Issuer and the Guarantors shall promptly (and in any event within 10 days) irrevocably designate, appoint and empower Puglisi & Associates, 850 Library Avenue, Suite 204, Newark, Delaware 19711 (or another third party corporate service provider of national standing), as their designee, appointee and agent to receive, accept and acknowledge for and on their behalf service of any and all legal process, summons, notices and documents that may be served in any action, suit or proceeding brought against them in any such United States or state court located in the County of New York with respect to their obligations, liabilities or any other matter arising out of or in connection with this Indenture and that may be made on such designee, appointee and agent in accordance with legal procedures prescribed for such courts (the "*Process Agent*") and pay all fees and expenses required by the Process Agent in connection therewith. If for any reason such Process Agent hereunder shall cease to be available to act as such, each of the Issuer and the Guarantors agrees to designate a new Process Agent in the County of New York on the terms and for the purposes of this Section 13.15.

(b) Each of the Issuer and the Guarantors further hereby irrevocably consents and agrees to the service of any and all legal process, summons, notices and documents in any such action, suit or proceeding against them by (i) serving a copy thereof upon the Process Agent specified in clause (a) above, or (ii) or by mailing copies thereof by registered or certified air mail, postage prepaid, to the Issuer, at its address specified in or designated pursuant to this Indenture. Each of the Issuer and the Guarantors agrees that the failure of any Process Agent to give any notice of such service to it shall not impair or affect in any way the validity of such service or any judgment rendered in any action or proceeding based thereon.

(c) The Issuer and each Guarantor agree that a final judgment in any such suit, action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing herein shall in any way be deemed to limit the ability of the Trustee or any Holder to serve any such legal process, summons, notices and documents in any other manner permitted by applicable law or to obtain jurisdiction over the Issuer or the Guarantors or bring actions, suits or proceedings against them in such other jurisdictions, and in such manner, as may be permitted by applicable law.

(d) The provisions of this Section 13.15 shall survive any termination of this Indenture, in whole or in part.

(e) The Issuer and each of the Guarantors hereby irrevocably and unconditionally waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of venue of any of the aforesaid actions, suits or proceedings arising out of or in connection with this Indenture brought in the United States federal courts located in the County of New York or the courts of the State of New York located in the County of New York and hereby further irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum. The Issuer and the Guarantors, and their obligations under this Indenture, the Notes and the Guarantees, are subject to civil and commercial law and to suit and none of the Issuer, the Guarantors or any of their respective properties, assets or revenues have any right of immunity, on the grounds of sovereignty, from any legal action, suit or proceeding, from the giving of any relief in any such legal action, suit or proceeding, from setoff or counterclaim, from the jurisdiction of New York State or U.S. federal court, as the case may be, from service of process, attachment upon or prior to judgment, or attachment in aid of execution of judgment, or from execution or enforcement of a judgment, or other legal process or proceeding for the giving of any relief or for the enforcement of a judgment, in any such court, with respect to its obligations or liabilities or any other matter under or arising out of or in connection with this Indenture, the Notes and the Guarantees; and, to the extent that the Issuer, any Guarantor or any of their respective properties, assets or revenues may have or may hereafter become entitled to any such right of immunity in any such court in which proceedings may at any time be commenced, each of the Issuer and the Guarantors waived or will waive such right to the extent permitted by law and has consented to such relief and enforcement as provided in this Indenture, the Notes and the Guarantees.

SECTION 13.16. Currency of Account; Conversion of Currency; Foreign Exchange Restrictions.

(a) U.S. dollars are the sole currency of account and payment for all sums payable by the Issuer and the Guarantors under or in connection with the Notes, the Guarantees or this Indenture, including damages related thereto. Any amount received or recovered in a currency other than U.S. dollars by a Holder (whether as a result of, or of the enforcement of, a judgment or order of a court of any jurisdiction, in the winding-up or dissolution of the Issuer or otherwise) in respect of any sum expressed to be due to it from the Issuer shall only constitute a discharge to the Issuer to the extent of the U.S. dollar amount which the recipient is able to purchase with the amount so received or recovered in that other currency on the date of that receipt or recovery (or, if it is not practicable to make that purchase on that date, on the first date on which it is practicable to do so). If that U.S. dollar amount is less than the U.S. dollar amount expressed to be due to the recipient under the Notes, the Issuer shall indemnify it against any loss sustained by it as a result as set forth in Section 13.16(b). In any event, the Issuer and the Guarantors shall indemnify the recipient against the cost of making any such purchase. For the purposes of this Section 13.16, it shall be sufficient for the Holder to certify in a satisfactory manner (indicating sources of information used) that it would have suffered a loss had an actual purchase of U.S. dollars been made with the amount so received in that other currency on the

date of receipt or recovery (or, if a purchase of U.S. dollars on such date had not been practicable, on the first date on which it would have been practicable, it being required that the need for a change of date be certified in the manner mentioned above). The indemnities set forth in this Section 13.16 constitute separate and independent obligations from other obligations of the Issuer and the Guarantors, shall give rise to a separate and independent cause of action, shall apply irrespective of any indulgence granted by any Holder and shall continue in full force and effect despite any other judgment, order, claim or proof for a liquidated amount in respect of any sum due under the Notes.

(b) The Issuer and the Guarantors, jointly and severally, covenant and agree that the following provisions shall apply to conversion of currency in the case of the Notes, the Guarantees and this Indenture:

(A) If for the purpose of obtaining judgment in, or enforcing the judgment of, any court in any country, it becomes necessary to convert into a currency (the "*Judgment Currency*") an amount due in any other currency (the "*Base Currency*"), then the conversion shall be made at the rate of exchange prevailing on the Business Day before the day on which the judgment is given or the order of enforcement is made, as the case may be (unless a court shall otherwise determine).

(B) If there is a change in the rate of exchange prevailing between the Business Day before the day on which the judgment is given or an order of enforcement is made, as the case may be (or such other date as a court shall determine), and the date of receipt of the amount due, the Issuer and the Guarantors shall pay such additional (or, as the case may be, such lesser) amount, if any, as may be necessary so that the amount paid in the Judgment Currency when converted at the rate of exchange prevailing on the date of receipt shall produce the amount in the Base Currency originally due.

(C) In the event of the winding-up of the Issuer or any Guarantor at any time while any amount or damages owing under the Notes, the Guarantees and this Indenture, or any judgment or order rendered in respect thereof, shall remain outstanding, the Issuer and the Guarantors shall indemnify and hold the Holders and the Trustee harmless against any deficiency arising or resulting from any variation in rates of exchange between (i) the date as of which the U.S. Dollar Equivalent of the amount due or contingently due under the Notes, the Guarantees and this Indenture (other than under this subsection (C)) is calculated for the purposes of such winding-up and (ii) the final date for the filing of proofs of claim in such winding-up. For the purpose of this subsection (C), the final date for the filing of proofs of claim in the winding-up of the Issuer or any Guarantor shall be the date fixed by the liquidator or otherwise in accordance with the relevant provisions of applicable law as being the latest practicable date as at which liabilities of such Issuer or such Guarantor may be ascertained for such winding-up prior to payment by the liquidator or otherwise in respect thereto.

(c) The obligations contained in subsections (a), (b)(B) and (b)(C) of this Section 13.16 shall constitute separate and independent obligations from the other obligations of the Issuer and the Guarantors under this Indenture, shall give rise to separate and independent causes of action against the Issuer and the Guarantors, shall apply irrespective of any waiver or extension granted by any Holder or the Trustee or either of them from time to time and shall continue in full force and effect notwithstanding any judgment or order or the filing of any proof of claim in the winding-up of the Issuer or any Guarantor for a liquidated sum in respect of amounts due hereunder (other than under subsection (b)(C) above) or under any such judgment or order. Any such deficiency as aforesaid shall be deemed to constitute a loss suffered by the Holders or the Trustee, as the case may be, and no proof or evidence of any actual loss shall be required by the Issuer or any Guarantor or the liquidator or otherwise or any of them. In the case of subsection (b)(C) above, the amount of such deficiency shall not be deemed to be reduced by any variation in rates of exchange occurring between the said final date and the date of any liquidating distribution.

(d) The term “*rate of exchange*” shall mean the rate of exchange quoted by Reuters at 10:00 a.m. (New York time) for spot purchases of the Base Currency with the Judgment Currency other than the Base Currency referred to in subsection (b) above and includes any premiums and costs of exchange payable.

SECTION 13.17. Patriot Act.

The parties hereto acknowledge that in accordance with Section 326 of the U.S.A. Patriot Act, each of the Trustee and the Security Agent, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that identifies each person or legal entity that establishes a relationship or opens an account with the Trustee or the Security Agent. The parties to this Indenture agree that they will provide the Trustee or the Security Agent, as applicable, with such information as it may request in order for the Trustee or the Security Agent, as applicable, to satisfy the requirements of the U.S.A. Patriot Act.

SECTION 13.18. Mutual Undertakings with Respect to Possible FATCA Withholdings.

(a) Each party to this Indenture shall, within ten Business Days of a written request by another party to this Indenture, supply to that other party such forms, documentation and other information relating to it, its operations, or any Notes as that other party reasonably requests for the purposes of that other party’s compliance with Applicable Law and shall notify the relevant other party reasonably promptly in the event that it becomes aware that any of the forms, documentation or other information provided by such party is (or becomes) inaccurate in any material respect; provided, however, that no party to this Indenture shall be required to provide any forms, documentation or other information pursuant to this Section 13.18(a) to the extent that: (i) any such form, documentation or other information (or the information required to

be provided on such form or documentation) is not reasonably available to such party and cannot be obtained by such party using reasonable efforts; or (ii) doing so would or might in the reasonable opinion of such party constitute a breach of any: (a) Applicable Law; (b) fiduciary duty; or (c) duty of confidentiality. For purposes of this Section 13.18, "Applicable Law" shall be deemed to include (i) any rule or practice of any Authority by which any party to this Indenture is bound or with which it is accustomed to comply; (ii) any agreement between any Authorities; and (iii) any agreement between any Authority and any party to this Indenture that is customarily entered into by institutions of a similar nature.

(b) The Issuer shall notify each Paying Agent in the event that it determines that any payment to be made by a Paying Agent under any Notes is a payment which could be subject to FATCA Withholding if such payment were made to a recipient that is generally unable to receive payments free from FATCA Withholding, and the extent to which the relevant payment is so treated, provided, however, that the Issuer's obligation under this Section 13.18(b) shall apply only to the extent that such payments are so treated by virtue of characteristics of the Issuer, such Notes, or both.

(c) Notwithstanding any other provision of this Indenture, each Paying Agent shall be entitled to make a deduction or withholding from any payment which it makes under the Notes for or on account of any Tax, if and only to the extent so required by Applicable Law, in which event the Paying Agent shall make such payment after such deduction or withholding has been made and shall account to the relevant Authority within the time allowed for the amount so deducted or withheld or, at its option, shall reasonably promptly after making such payment return to the Issuer the amount so deducted or withheld, in which case, the Issuer shall so account to the relevant Authority for such amount. For the avoidance of doubt, FATCA Withholding is a deduction or withholding which is deemed to be required by Applicable Law for the purposes of this Section 13.18(c).

(d) In the event that the Issuer determines in its sole discretion that any deduction or withholding for or on account of any Tax will be required by Applicable Law in connection with any payment due to any of the Paying Agents on any Notes, then the Issuer will be entitled to redirect or reorganize any such payment in any way that it sees fit in order that the payment may be made without such deduction or withholding provided that, any such redirected or reorganized payment is made through a recognized institution of international standing and otherwise made in accordance with this Indenture. The Issuer will promptly notify the Paying Agents and the Trustee of any such redirection or reorganization. For the avoidance of doubt, FATCA Withholding is a deduction or withholding which is deemed to be required by Applicable Law for the purposes of this Section 13.18(d).

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed all as of the date first written above.

GLOBAL SHIP LEASE, INC.

as Issuer

By: /s/ Ian J. Webber

Name: Ian J. Webber

Title: Chief Executive Officer

By: /s/ Thomas A. Lister

Name: Thomas A. Lister

Title: Chief Financial Officer & Chief Commercial
Officer

[Signature Page to the Indenture]

**GLOBAL SHIP LEASE SERVICES LIMITED
GLOBAL SHIP LEASE 3 LIMITED
GLOBAL SHIP LEASE 4 LIMITED
GLOBAL SHIP LEASE 5 LIMITED
GLOBAL SHIP LEASE 6 LIMITED
GLOBAL SHIP LEASE 7 LIMITED
GLOBAL SHIP LEASE 8 LIMITED
GLOBAL SHIP LEASE 9 LIMITED
GLOBAL SHIP LEASE 10 LIMITED
GLOBAL SHIP LEASE 12 LIMITED
GLOBAL SHIP LEASE 13 LIMITED
GLOBAL SHIP LEASE 14 LIMITED
GLOBAL SHIP LEASE 15 LIMITED
GLOBAL SHIP LEASE 16 LIMITED
GLOBAL SHIP LEASE 20 LIMITED
GLOBAL SHIP LEASE 21 LIMITED
GLOBAL SHIP LEASE 22 LIMITED
GLOBAL SHIP LEASE 23 LIMITED
GSL ALCAZAR INC.**

as Guarantors

By: /s/ Ian J. Webber

Name: Ian J. Webber

Title: Authorized Signatory

By: /s/ Thomas A. Lister

Name: Thomas A. Lister

Title: Authorized Signatory

[Signature Page to the Indenture]

CITIBANK, N.A., LONDON BRANCH, as
Trustee, Security Agent, Paying Agent,
Registrar and Transfer Agent

By: /s/ Stuart Sullivan

Name: Stuart Sullivan

Title: Vice President

SECURITY DOCUMENTS

Security Document	Governing Law	Signatories
The Issuer		
Assignment of Intra-group Loans	England	Issuer as assignor and Security Agent as assignee
Global Ship Lease 3 Limited		
Deed of Pledge over shares in Global Ship Lease 3 Limited	Cyprus	Issuer as pledgor and Security Agent as pledgee
Ship Mortgage and Deed of Covenants in respect of vessel "CMA CGM Matisse"	Cyprus	Global Ship Lease 3 Limited as mortgagor and Security Agent as mortgagee
Deed of Assignment in respect of insurance, charters, freights, hires, management agreements and intra-group loans relating to vessel "CMA CGM Matisse"	England	Global Ship Lease 3 Limited as assignor and Security Agent as assignee
Account Pledge	Netherlands	Global Ship Lease 3 Limited as pledgor and Security Agent as pledgee
Global Ship Lease 4 Limited		
Deed of Pledge over shares in Global Ship Lease 4 Limited	Cyprus	Issuer as pledgor and Security Agent as pledgee
Ship Mortgage and Deed of Covenants in respect of vessel "CMA CGM Utrillo"	Cyprus	Global Ship Lease 4 Limited as mortgagor and Security Agent as mortgagee
Deed of Assignment in respect of insurance, charters, freights, hires, management agreements and intra-group loans relating to vessel "CMA CGM Utrillo"	England	Global Ship Lease 4 Limited as assignor and Security Agent as assignee
Account Pledge	Netherlands	Global Ship Lease 4 Limited as pledgor and Security Agent as pledgee

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Global Ship Lease 5 Limited

Deed of Pledge over shares in Global Ship Lease 5 Limited	Cyprus	Issuer as pledgor and Security Agent as pledgee
Ship Mortgage in respect of vessel "Delmas Keta"	Bahamas	Global Ship Lease 5 Limited as mortgagor and Security Agent as mortgagee
Deed of Covenant in respect of vessel "Delmas Keta"	England	Global Ship Lease 5 Limited as owner and Security Agent as mortgagee
Deed of Assignment in respect of insurance, charters, freights, hires, management agreements and intra-group loans relating to vessel "Delmas Keta"	England	Global Ship Lease 5 Limited as assignor and Security Agent as assignee
Account Pledge	Netherlands	Global Ship Lease 5 Limited as pledgor and Security Agent as pledgee;

Global Ship Lease 6 Limited

Deed of Pledge over shares in Global Ship Lease 6 Limited	Cyprus	Issuer as pledgor and Security Agent as pledgee
Ship Mortgage in respect of vessel "Julie Delmas"	Bahamas	Global Ship Lease 6 Limited as mortgagor and Security Agent as mortgagee
Deed of Covenant in respect of vessel "Julie Delmas"	England	Global Ship Lease 6 Limited as owner and Security Agent as mortgagee
Deed of Assignment in respect of insurance, charters, freights, hires, management agreements and intra-group loans relating to vessel "Julie Delmas"	England	Global Ship Lease 6 Limited as assignor and Security Agent as assignee
Account Pledge	Netherlands	Global Ship Lease 6 Limited as pledgor and Security Agent as pledgee;

Global Ship Lease 7 Limited

Deed of Pledge over shares in Global Ship Lease 7 Limited	Cyprus	Issuer, as pledgor and Security Agent as pledgee
Ship Mortgage in respect of vessel "Kumasi"	Bahamas	Global Ship Lease 7 Limited as mortgagor and Security Agent as mortgagee
Deed of Covenant in respect of vessel "Kumasi"	England	Global Ship Lease 7 Limited as owner and Security Agent as mortgagee
Deed of Assignment in respect of insurance, charters, freights, hires, management agreements and intra-group loans relating to vessel "Kumasi"	England	Global Ship Lease 7 Limited as assignor and Security Agent as assignee
Account Pledge	Netherlands	Global Ship Lease 7 Limited as pledgor and Security Agent as pledgee;

Global Ship Lease 8 Limited

Deed of Pledge over shares in Global Ship Lease 8 Limited	Cyprus	Issuer as pledgor and Security Agent as pledgee
Ship Mortgage in respect of vessel "Marie Delmas"	Bahamas	Global Ship Lease 8 Limited as mortgagor and Security Agent as mortgagee
Deed of Covenant in respect of vessel "Marie Delmas"	England	Global Ship Lease 8 Limited as owner and Security Agent as mortgagee
Deed of Assignment in respect of insurance, charters, freights, hires, management agreements and intra-group loans relating to vessel "Marie Delmas"	England	Global Ship Lease 8 Limited as assignor and Security Agent as assignee
Account Pledge	Netherlands	Global Ship Lease 8 Limited as pledgor and Security Agent as pledgee;

Global Ship Lease 9 Limited

Deed of Pledge over shares in Global Ship Lease 9 Limited	Cyprus	Issuer as pledgor and Security Agent as pledgee
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Ship Mortgage in respect of vessel "CMA CGM La Tour"	Bahamas	Global Ship Lease 9 Limited as mortgagor and Security Agent as mortgagee
Deed of Covenant in respect of vessel "CMA CGM La Tour"	England	Global Ship Lease 9 Limited as owner and Security Agent as mortgagee
Deed of Assignment in respect of insurance, charters, freights, hires, management agreements and intra-group loans relating to vessel "CMA CGM La Tour"	England	Global Ship Lease 9 Limited as assignor and Security Agent as assignee
Account Pledge	Netherlands	Global Ship Lease 9 Limited as pledgor and Security Agent as pledgee;
Global Ship Lease 10 Limited		
Deed of Pledge over shares in Global Ship Lease 10 Limited	Cyprus	Issuer as pledgor and Security Agent as pledgee
Ship Mortgage and Deed of Covenants in respect of vessel "CMA CGM Manet"	Cyprus	Global Ship Lease 10 Limited as mortgagor and Security Agent as mortgagee
Deed of Assignment in respect of insurance, charters, freights, hires, management agreements and intra-group loans relating to vessel "CMA CGM Manet"	England	Global Ship Lease 10 Limited as assignor and Security Agent as assignee.
Account Pledge	Netherlands	Global Ship Lease 10 Limited as pledgor and Security Agent as pledgee;
Global Ship Lease 12 Limited		
Deed of Pledge over shares in Global Ship Lease 12 Limited.	Cyprus	Issuer as pledgor and Security Agent as pledgee
Ship Mortgage and Deed of Covenants in respect of vessel "CMA CGM Chateau d'If"	Cyprus	Global Ship Lease 12 Limited as mortgagor and Security Agent as mortgagee

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Deed of Assignment in respect of insurance, charters, freights, hires, management agreements and intra-group loans relating to vessel "CMA CGM Chateau d'If"	England	Global Ship Lease 12 Limited as assignor and Security Agent as assignee
Account Pledge	Netherlands	Global Ship Lease 12 Limited as pledgor and Security Agent as pledgee;
Global Ship Lease 13 Limited		
Deed of Pledge over shares in Global Ship Lease 13 Limited	Cyprus	Issuer as pledgor and Security Agent as pledgee
Ship Mortgage and Deed of Covenants in respect of vessel "CMA CGM Thalassa"	Cyprus	Global Ship Lease 13 Limited as mortgagor and Security Agent as mortgagee
Deed of Assignment in respect of insurance, charters, freights, hires, management agreements and intra-group loans relating to vessel "CMA CGM Thalassa"	England	Global Ship Lease 13 Limited as assignor and Security Agent as assignee
Account Pledge	Netherlands	Global Ship Lease 13 Limited as pledgor and Security Agent as pledgee;
Global Ship Lease 14 Limited		
Deed of Pledge over shares in Global Ship Lease 14 Limited	Cyprus	Issuer as pledgor and Security Agent as pledgee
Ship Mortgage and Deed of Covenants in respect of vessel "CMA CGM Jamaica"	Cyprus	Global Ship Lease 14 Limited as mortgagor and Security Agent as mortgagee
Deed of Assignment in respect of insurance, charters, freights, hires, management agreements and intra-group loans relating to vessel "CMA CGM Jamaica"	England	Global Ship Lease 14 Limited as assignor and Security Agent as assignee
Account Pledge	Netherlands	Global Ship Lease 14 Limited as pledgor and Security Agent as pledgee;

Global Ship Lease 15 Limited

Security Document	Governing Law	Signatories
Deed of Pledge over shares in Global Ship Lease 15 Limited	Cyprus	Issuer as pledgor and Security Agent as pledgee
Ship Mortgage and Deed of Covenants in respect of vessel "CMA CGM Sambhar"	Cyprus	Global Ship Lease 15 Limited as mortgagor and Security Agent as mortgagee
Deed of Assignment in respect of insurance, charters, freights, hires, management agreements and intra-group loans relating to vessel "CMA CGM Sambhar"	England	Global Ship Lease 15 Limited as assignor and Security Agent as assignee
Account Pledge	Netherlands	Global Ship Lease 15 Limited as pledgor and Security Agent as pledgee

Global Ship Lease 16 Limited

Deed of Pledge over shares in Global Ship Lease 16 Limited	Cyprus	Issuer as pledgor and Security Agent as pledgee
Ship Mortgage and Deed of Covenants in respect of vessel "CMA CGM America"	Cyprus	Global Ship Lease 16 Limited as mortgagor and Security Agent as mortgagee
Deed of Assignment in respect of insurance, charters, freights, hires, management agreements and intra-group loans relating to vessel "CMA CGM America"	England	Global Ship Lease 16 Limited as assignor and Security Agent as assignee
Account Pledge	Netherlands	Global Ship Lease 16 Limited as pledgor and Security Agent as pledgee

Global Ship Lease 21 Limited

Share Mortgage over shares in Global Ship Lease 21 Limited.	Hong Kong	Issuer as mortgagor and Security Agent as mortgagee
Ship Mortgage in respect of vessel "OOCL Qingdao"	Hong Kong	Global Ship Lease 21 Limited as mortgagor and Security Agent as mortgagee
Deed of Covenant in respect of vessel "OOCL Qingdao"	Hong Kong	Global Ship Lease 21 Limited as owner and Security Agent as mortgagee
Deed of Assignment in respect of insurance, charters, freights, hires, management agreements and intra-group loans relating to vessel "OOCL Qingdao"	England	Global Ship Lease 21 Limited as assignor and Security Agent as assignee
Account Pledge	Netherlands	Global Ship Lease 21 Limited as pledgor and Security Agent as pledgee

Global Ship Lease 22 Limited

Share Mortgage over shares in Global Ship Lease 22 Limited.	Hong Kong	Issuer as mortgagor and Security Agent as mortgagee
Ship Mortgage in respect of vessel "OOCL Ningbo"	Hong Kong	Global Ship Lease 22 Limited as mortgagor and Security Agent as mortgagee
Deed of Covenant in respect of vessel "OOCL Ningbo"	Hong Kong	Global Ship Lease 22 Limited as owner and Security Agent as mortgagee
Deed of Assignment in respect of insurance, charters, freights, hires, management agreements and intra-group loans relating to vessel "OOCL Ningbo"	England	Global Ship Lease 22 Limited as assignor and Security Agent as assignee
Account Pledge	Netherlands	Global Ship Lease 22 Limited as pledgor and Security Agent as pledgee;

Global Ship Lease 23 Limited

Share Mortgage over shares in Global Ship Lease 23 Limited.	Hong Kong	Issuer as mortgagor and Security Agent as mortgagee
Ship Mortgage in respect of vessel "CMA CGM Berlioz"	Bahamas	Global Ship Lease 23 Limited as mortgagor and Security Agent as mortgagee

Deed of Covenant in respect of vessel “CMA CGM Berlioz”	England	Global Ship Lease 23 Limited as owner and Security Agent as mortgagee
Deed of Assignment in respect of insurance, charters, freights, hires, management agreements and intra-group loans relating to vessel “CMA CGM Berlioz”	England	Global Ship Lease 23 Limited as assignor and Security Agent as assignee
Account Pledge	Netherlands	Global Ship Lease 23 Limited as pledgor and Security Agent as pledgee;
GSL Alcazar Inc.		
Share Charge over shares in GSL Alcazar Inc.	England	Issuer as chargor and Security Agent as chargee
Ship Mortgage in respect of vessel “CMA CGM Alcazar”	Panama	GSL Alcazar Inc. as mortgagor and Security Agent as mortgagee
Deed of Assignment in respect of insurance, charters, freights, hires, management agreements and intra-group loans relating to vessel “CMA CGM Alcazar”	England	GSL Alcazar Inc. as assignor and Security Agent as assignee
Account Pledge	Netherlands	GSL Alcazar Inc. as pledgor and Security Agent as pledgee
Global Ship Lease 20 Limited		
Share Mortgage over shares in Global Ship Lease 20 Limited	Hong Kong	Issuer as mortgagor and Security Agent as mortgagee
Ship Mortgage in respect of vessel “OOCL Tianjin”	Hong Kong	Global Ship Lease 20 Limited as mortgagor and Security Agent as mortgagee
Deed of Covenant in respect of vessel “OOCL Tianjin”	Hong Kong	Global Ship Lease 20 Limited as owner and Security Agent as mortgagee
Deed of Assignment in respect of insurance, charters, freights, hires, management agreements and intra-group loans relating to vessel “OOCL Tianjin”	England	Global Ship Lease 20 Limited as assignor and Security Agent as assignee
Account Pledge	Netherlands	Global Ship Lease 20 Limited as pledgor and Security Agent as pledgee

FORM OF NOTE

[Insert the Global Note Legend, if applicable pursuant to the provisions of the Indenture]

[Insert the Private Placement Legend, if applicable pursuant to the provisions of the Indenture]

GLOBAL SHIP LEASE, INC.

9.875% First Priority Secured Notes due 2022

CUSIP No.
ISIN No.

No.

\$

GLOBAL SHIP LEASE, INC., a Marshall Islands corporation, as issuer (the "Issuer"), for value received, jointly and severally, promise to pay to _____ or its registered assigns, the principal sum of _____ U.S. dollars [or such other amount as is provided in a schedule attached hereto]¹ on November 15, 2022.

Interest Payment Dates: May 15 and November 15, commencing May 15, 2018.

Record Dates: May 1 and November 1.

Reference is made to the further provisions of this Note contained herein, which shall for all purposes have the same effect as if set forth at this place.

¹ This language should be included only if the Note is issued in global form

IN WITNESS WHEREOF, the Issuer has caused this Note to be signed manually or by facsimile by its duly authorized Officer.

Dated:

GLOBAL SHIP LEASE, INC.,
as Issuer

By: _____
Name:
Title:

By: _____
Name:
Title:

FORM OF TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the 9.875% First Priority Secured Notes due 2022 described in the within-mentioned Indenture.

Dated:

CITIBANK, N.A., LONDON BRANCH
as Trustee

By: _____
Authorized Signatory

9.875% First Priority Secured Notes due 2022

Capitalized terms used herein shall have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

SECTION 1. Interest. Global Ship Lease, Inc. (the “Issuer”), a Marshall Islands corporation, promises to pay interest on the principal amount of this Note at 9.875% *per annum* from October 31, 2017², until maturity. The Issuer shall pay interest semi-annually in arrears on May 15 and November 15 of each year, or if any such day is not a Business Day, on the next succeeding Business Day (each an “Interest Payment Date”), commencing [May 15, 2018]³. Interest on the Notes shall accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the date of original issuance. The Issuer shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal and premium, if any, from time to time on demand to the extent lawful at the interest rate applicable to the Notes; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest, if any (in each case without regard to any applicable grace periods) from time to time on demand at the same rate to the extent lawful. Interest shall be computed on the basis of a 360-day year of twelve 30-day months.

SECTION 2. Method of Payment. The Issuer shall pay interest, if any, on the Notes to the Persons who are registered Holders at the close of business on the May 1 or November 1 immediately preceding the Interest Payment Date, even if such Notes are canceled after such Record Date and on or before such Interest Payment Date, except as provided in Section 2.12 of the Indenture with respect to defaulted interest. The Notes shall be issued in denominations of \$200,000 and integral multiples of \$1,000 in excess thereof. The Issuer shall pay principal, premium, if any, and interest on the Notes in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

SECTION 3. Paying Agent and Registrar Initially, Citibank, N.A., London Branch, the Trustee under the Indenture, shall act as Paying Agent and Registrar. The Issuer may change any Paying Agent or Registrar without prior notice to any Holder. Except as provided in the Indenture, the Issuer or any of its Subsidiaries may act in any such capacity.

SECTION 4. Indenture. The Issuer issued the Notes under an Indenture dated as of October 31, 2017 (the “Indenture”) by and among the Issuer, the Guarantors (as defined therein), Citibank, N.A., London Branch, as Trustee and Security Agent. The Notes are subject to all such terms, and Holders are referred to the Indenture for a statement of such terms. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling.

² With respect to the Notes issued on the Issue Date.

³ With respect to the Notes issued on the Issue Date.

SECTION 5. Optional Redemption.

(a) On or after November 15, 2019, the Issuer may redeem all or a part of the Notes upon not less than 10 nor more than 60 days' notice, at the redemption prices (expressed as percentages of principal amount) set forth below *plus* accrued and unpaid interest, if any, on the Notes redeemed, to the applicable Redemption Date, if redeemed during the twelve-month period beginning on November 15 of the years indicated below, subject to the rights of Holders on the relevant Record Date to receive interest on the relevant Interest Payment Date:

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

(b) Prior to November 15, 2019, the Issuer may, at its option, redeem all or a part of the Notes upon not less than 10 nor more than 60 days' notice at a redemption price equal to the sum of:

- (i) 100% of the principal amount of the Notes to be redeemed, *plus*
- (ii) the Applicable Premium, *plus*

accrued and unpaid interest, if any, on the Notes redeemed, to the applicable Redemption Date, subject to the right of Holders on the relevant Record Date to receive interest due on the relevant interest payment date.

SECTION 6. [Reserved]

SECTION 7. Redemption for Changes in Withholding Tax.

The Issuer may redeem the Notes, in whole but not in part, at its discretion at any time upon giving not less than 10 nor more than 60 days' prior notice to the Holders (which notice will be irrevocable and given in accordance with the procedures described in Section 8 below, at a redemption price equal to 100% of the aggregate principal amount thereof, together with accrued and unpaid interest, if any, to the date fixed by the Issuer for redemption (a "*Tax Redemption Date*") and all Additional Amounts (if any) then due and which will become due on the Tax Redemption Date as a result of the redemption or otherwise (subject to the right of holders of the Notes on the relevant record date to receive interest due on the relevant interest payment date and Additional Amounts (if any) in respect thereof), if on the next date on which any amount would be payable in respect of the Notes or any Guarantee, the Issuer of the Notes or any of the Guarantors with respect to any Guarantee is or would be required to pay Additional Amounts, and the Issuer or Guarantor, as applicable, cannot avoid any such payment obligation by taking reasonable measures available to it (including making payment through a Paying

Agent located in another jurisdiction or, in the case of a Guarantor, having another Guarantor make payment, in each case to the extent such measure is reasonable), and the requirement arises as a result of:

(1) any amendment to, or change in, the laws or any regulations or rulings promulgated thereunder of a Relevant Taxing Jurisdiction which change or amendment has not been publicly announced as formally proposed before and which becomes effective on or after the date of the Offering Memorandum (or, if the applicable Relevant Taxing Jurisdiction became a Relevant Taxing Jurisdiction on a date after the date of the Offering Memorandum, such later date); or

(2) any amendment to, or change in, an official written interpretation or application of such laws, regulations or rulings (including by virtue of a holding, judgment, order by a court of competent jurisdiction or a change in published administrative practice) which amendment or change has not been publicly announced, as formally proposed before and which becomes effective on or after the date of the Offering Memorandum (or, if the applicable Relevant Taxing Jurisdiction became a Relevant Taxing Jurisdiction on a date after the date of the Offering Memorandum, such later date) (each of the foregoing clause (1) and this clause (2), a “*Change in Tax Law*”).

No such notice of redemption may be given earlier than 60 days prior to the earliest date on which the Issuer or Guarantor (as the case may be) would be obligated to pay such Additional Amounts were a payment in respect of the Notes then due and payable. Prior to the publication or delivery of any notice of redemption of the Notes pursuant to the foregoing, the Issuer will deliver to the Trustee (a) an Officer’s Certificate stating that obligation to pay such Additional Amounts cannot be avoided by the Issuer or the relevant Guarantor taking reasonable measures available to it; and (b) a written opinion of independent tax counsel to the Issuer of recognized standing qualified under the laws of the Relevant Taxing Jurisdiction to the effect that the Issuer or the relevant Guarantor has or will become obligated to pay such Additional Amounts as a result of the Change in Tax Law. The Trustee shall be entitled to conclusively rely on such Officer’s Certificate and Opinion of Counsel as sufficient evidence of the existence and satisfaction of the conditions precedent as described above, in which event it will be conclusive and binding on the Holders.

The foregoing provisions shall apply (a) to a Guarantor only on or after such time as such Guarantor is obligated to make at least one payment on the Notes; and (b) *mutatis mutandis* to any successor Person, after such successor Person becomes a party to the Indenture, with respect to a Change in Tax Law occurring after the time such successor Person becomes a party to the Indenture.

SECTION 8. Selection and Notice of Redemption. Notes in denominations larger than \$200,000 may be redeemed in part; *provided* that Notes shall be redeemed only in integral multiples of \$1,000 unless all Notes held by a Holder are to be redeemed. Notice of redemption shall be delivered electronically or mailed by first class mail at least 10 days but not more than 60 days before the Redemption Date to each Holder whose Notes are to be redeemed at its registered address, except that redemption notices may be delivered electronically or mailed more than 60 days prior to a Redemption Date if the notice is issued in connection with a defeasance of the Notes or a satisfaction and discharge of the Indenture. If any Note is to be redeemed in part only, the notice of redemption that relates to such Note shall state the portion of the principal amount thereof to be redeemed. A new Note in principal amount equal to the unredeemed portion of the original Note shall be issued in the name of the Holder upon

cancellation of the original Note. Notes called for redemption become due on the date fixed for redemption. On and after the Redemption Date, interest, if any, ceases to accrue on Notes or portions thereof called for redemption, unless the Issuer defaults in the payment of the Redemption Price.

SECTION 9. Mandatory Redemption. Other than pursuant to Section 10 below and Section 4.23 of the Indenture, the Issuer shall not be required to make mandatory redemption or sinking fund payments with respect to the Notes.

SECTION 10. Repurchase at Option of Holder.

(a) Upon the occurrence of a Change of Control, and subject to certain conditions set forth in the Indenture, the Issuer shall be required to offer to purchase all or any part (equal to \$200,000 or an integral multiple of \$1,000 in excess thereof) of the outstanding Notes at a purchase price equal to 101% of the aggregate principal amount thereof, *plus* accrued and unpaid interest, if any, thereon to the date of repurchase, subject to the rights of Holders on the relevant Record Date to receive interest due on the relevant interest payment date.

(b) The Issuer is, subject to certain conditions and exceptions, obligated to make an offer to purchase Notes with certain Excess Collateral Proceeds and Excess Loss Proceeds at a specified price, in each case in accordance with the Indenture.

(c) No later than the date that is 30 days following each Annual Mandatory Payment Deadline, the Issuer is, subject to certain conditions and exceptions, obligated to repay Indebtedness outstanding under the New Term Loan Facility (to the extent outstanding) make an Annual Mandatory Offer to purchase the Notes or otherwise redeem or repurchase Notes in specified amounts at a specified price, in each case in accordance with the Indenture.

SECTION 11. Denominations, Transfer, Exchange. The Notes are in registered form without coupons in minimum denominations of \$200,000 and integral multiples of \$1,000 in excess thereof. The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Issuer may require a Holder to pay any taxes and fees required by law or permitted by the Indenture. The Issuer shall not be required and, without the prior written consent of the Issuer, the Registrar shall not be required to register the transfer of or exchange of any Note (i) during a period beginning at the opening of business 15 days before the mailing of a notice of redemption of Notes and ending at the close of business on the day of such mailing, (ii) selected for redemption in whole or in part pursuant to Article Three of the Indenture, except the unredeemed portion of any Note being redeemed in part, (iii) that has been tendered (and not validly withdrawn) in a Change of Control Offer, and (iv) beginning at the opening of business on any Record Date and ending on the close of business on the related Interest Payment Date.

SECTION 12. Persons Deemed Owners. The registered Holder of a Note may be treated as its owner for all purposes.

SECTION 13. Amendment, Supplement and Waiver. The Indenture, the Notes, the Guarantees, the Intercreditor Agreement, any Additional Intercreditor Agreement or the Security Documents and the Notes may be amended, supplemented or waived as set forth in, and subject to the terms and conditions of, the Indenture.

SECTION 14. Defaults and Remedies. The Events of Default relating to the Notes are set forth in Section 6.01 of the Indenture. If an Event of Default occurs and is continuing, the Trustee or the Holders of at least 25% in principal amount of the then outstanding Notes generally may declare all the Notes to be due and payable immediately. Notwithstanding the foregoing, in the case of an Event of Default arising from certain events of bankruptcy or insolvency as set forth in the Indenture, all outstanding Notes shall become due and payable without further action or notice. Holders may not enforce the Indenture or the Notes except as provided in the Indenture. Subject to certain limitations, Holders of a majority in principal amount of the then outstanding Notes may direct the Trustee in its exercise of any trust or power. The Holders of a majority in aggregate principal amount of the Notes then outstanding, by notice to the Trustee, may on behalf of the Holders of all of the Notes rescind an acceleration or waive any existing Default and its consequences under the Indenture except a continuing Default in the payment of interest on, or the principal of, or the premium on, the Notes, subject to certain conditions being met. The Issuer shall deliver to the Trustee a statement specifying any Default or Event of Default within 30 days of becoming aware thereof.

SECTION 15. Additional Amounts. All payments made by the Issuer under or with respect to this Note or by a Guarantor under or with respect to its Guarantee shall be made free and clear of and without withholding or deduction for or on account of any present or future Taxes, to the extent provided in Section 4.20 of the Indenture.

SECTION 16. Security Documents

In order to secure the due and punctual payment of the principal of, premium, if any, and interest on the Notes and all other amounts payable by the Issuer and the Guarantors under the Indenture, the Notes and the Guarantees when and as the same shall be due and payable, whether at maturity, by acceleration or otherwise, according to the terms of the Notes, the Guarantees and the Indenture, each of the Issuer and the Guarantors have granted security interests in and Liens on the Collateral owned by it to the Security Agent on behalf of the Secured Parties pursuant to the Indenture, the Intercreditor Agreement and the Security Documents. The Notes will be secured by Liens and security interests in the Collateral that are subject only to Permitted Liens.

Each Holder, by accepting a Note, consents and agrees to all of the terms and provisions of the Security Documents, as the same may be amended from time to time pursuant to the respective provisions thereof, of the Intercreditor Agreement and of the Indenture.

Each Holder acknowledges that any releases of Collateral made in compliance with the provisions of the Section 11.04 of the Indenture shall be deemed not to impair the Security Interests created by the Indenture or the Security Documents, as the case may be, in favor of the Security Agent on behalf of the Secured Parties.

SECTION 17. No Recourse Against Others.

No past, future or present director, Officer, employee, incorporator, member, manager, agent or shareholder of any Issuer or any Guarantor, as such, shall have any liability for any obligations of any Issuer or any Guarantors under the Notes, the Indenture, the Guarantees or for any claim based on, in respect of, or by reason of, such obligations or their creation. The Holder by accepting this Note and the Guarantees waives and releases all such liability. Such waiver and release are part of the consideration for issuance of this Note and the Guarantees.

SECTION 18. Guarantees. This Note shall be entitled to the benefits of certain Guarantees made for the benefit of the Holders. Reference is hereby made to the Indenture for a statement of the respective rights, limitations of rights, duties and obligations thereunder of the Guarantors, the Trustee and the Holders.

SECTION 19. Trustee Dealings with the Issuer. Subject to certain terms set forth in the Indenture, the Trustee, in its individual or any other capacity, may become the owner or pledgee of Notes and may otherwise deal with the Issuer, the Guarantors their Subsidiaries or their respective Affiliates as if it were not the Trustee.

SECTION 20. Authentication. This Note shall not be valid until authenticated by the manual signature of the Trustee or an authenticating agent.

SECTION 21. Abbreviations. Customary abbreviations may be used in the name of a Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entirety), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian), and U/G/M/A (= Uniform Gifts to Minors Act).

SECTION 22. CUSIP and ISIN Numbers. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Issuer has caused CUSIP and ISIN numbers to be printed on the Notes and the Trustee may use CUSIP or ISIN numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

SECTION 23. GOVERNING LAW. THIS NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT GIVING EFFECT TO CONFLICTS OF LAW PRINCIPLES TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

The Issuer shall furnish to any Holder upon written request and without charge a copy of the Indenture.

ASSIGNMENT FORM

I or we assign and transfer this Note to

(Print or type name, address and zip code of assignee or transferee)

(Insert Social Security or other identifying number of assignee or transferee)

and irrevocably appoint _____ agent to transfer this Note on the books of the Issuer. The agent may substitute another to act for him or her.

Dated: _____

Signed: _____

(Sign exactly as name appears on the other side of this Note)

Signature Guarantee: _____

Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor program reasonably acceptable to the Trustee)

In connection with any transfer of this Note occurring prior to the date which is the date following the anniversary of the original issuance of this Note, the undersigned confirms that it is making the transfer pursuant to one of the following:

[Check One]

- (1) to the Issuer or a subsidiary thereof; or
- (2) to a person who the transferor reasonably believes is a “qualified institutional buyer” pursuant to and in compliance with Rule 144A under the Securities Act of 1933, as amended (the “Securities Act”); or
- (3) outside the United States to a non-“U.S. person” as defined in Rule 902 of Regulation S under the Securities Act in compliance with Rule 904 of Regulation S under the Securities Act; or
- (4) pursuant to the exemption from registration provided by Rule 144 under the Securities Act or pursuant to another exemption available under the Securities Act; or
- (5) pursuant to an effective registration statement under the Securities Act.

and unless the box below is checked, the undersigned confirms that such Note is not being transferred to an “affiliate” of the Issuer as defined in Rule 144 under the Securities Act (an “Affiliate”):

transferee is an Affiliate of the Issuer.

Unless one of the foregoing items (1) through (5) is checked, the Trustee shall refuse to register any of the Notes evidenced by this certificate in the name of any person other than the registered Holder thereof; *provided, however*, that if item (3) or (4) is checked, the Issuer or the Trustee may require, prior to registering any such transfer of the Notes, in their sole discretion, such written legal opinions, certifications (including an investment letter in the case of box (3)) and other information as the Trustee or the Issuer has reasonably requested to confirm that such transfer is being made pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act.

If none of the foregoing items (1) through (5) are checked, the Trustee or Registrar shall not be obligated to register this Note in the name of any person other than the Holder hereof unless and until the conditions to any such transfer of registration set forth herein and in Section 2.16 of the Indenture shall have been satisfied.

Dated: _____

Signed: _____
(Sign exactly as name appears on the other side of this Note)

Signature Guarantee: _____

Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor program reasonably acceptable to the Trustee)

TO BE COMPLETED BY PURCHASER IF (2) ABOVE IS CHECKED

The undersigned represents and warrants that it is purchasing this Note for its own account or an account with respect to which it exercises sole investment discretion and that it and any such account is a “qualified institutional buyer” within the meaning of Rule 144A under the Securities Act and is aware that the sale to it is being made in reliance on Rule 144A and acknowledges that it has received such information regarding the Issuer as the undersigned has requested pursuant to Rule 144A or has determined not to request such information and that it is aware that the transferor is relying upon the undersigned’s foregoing representations in order to claim the exemption from registration provided by Rule 144A.

Dated: _____

NOTICE: _____
To be executed by an executive officer

OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Issuer pursuant to Section 4.09, Section 4.13, Section 4.21 or Section 4.23 of the Indenture, check the appropriate box:

Section 4.09

Section 4.13

Section 4.21

Section 4.23

If you want to elect to have only part of this Note purchased by the Issuer pursuant to Section 4.09, Section 4.13, Section 4.21 or Section 4.23 of the Indenture, state the amount (in denominations of \$200,000 and integral multiples of \$1,000 in excess thereof): \$_____

Dated: _____

Signed: _____
(Sign exactly as name appears on the other side of this Note)

Signature Guarantee: _____
Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor program reasonably acceptable to the Trustee)

SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE⁴

The following exchanges of a part of this Global Note for an interest in another Global Note or for a Physical Note, or exchanges of a part of another Global Note or Physical Note for an interest in this Global Note, have been made:

Date of Exchange	Amount of decrease in Principal Amount of this Global Note	Amount of increase in Principal Amount of this Global Note	Principal Amount of this Global Note following such decrease (or increase)	Signature of authorized signatory of Trustee or Note Custodian

⁴ This schedule should be included only if the Note is issued in global form.

FORM OF LEGENDS

Each Global Note and Physical Note that constitutes a Restricted Security shall bear the following legend (the "Private Placement Legend") on the face thereof until after the second anniversary of the Issue Date, unless otherwise agreed by the Issuer and the Holder thereof or if such legend is no longer required by Section 2.16(f) of the Indenture:

THIS NOTE HAS NOT BEEN AND WILL NOT BE REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "U.S. SECURITIES ACT"), OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION. NEITHER THIS NOTE NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE OFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE U.S. SECURITIES ACT.

THE HOLDER OF THIS NOTE BY ITS ACCEPTANCE HEREOF AGREES ON ITS OWN BEHALF AND ON BEHALF OF ANY INVESTOR FOR WHICH IT HAS PURCHASED SECURITIES TO OFFER, SELL OR OTHERWISE TRANSFER SUCH NOTE PRIOR TO THE DATE (THE "RESALE RESTRICTION TERMINATION DATE") WHICH IS ONE [IN THE CASE OF 144A NOTES: YEAR AFTER THE LATER OF THE ORIGINAL ISSUE DATE HEREOF AND THE LAST DATE ON WHICH THE ISSUER OR ANY AFFILIATE OF THE ISSUER WAS THE OWNER OF THIS SECURITY (OR ANY PREDECESSOR OF THIS SECURITY)] [IN THE CASE OF REGULATION S NOTES: 40 DAYS AFTER THE LATER OF THE ORIGINAL ISSUE DATE HEREOF AND THE DATE ON WHICH THE NOTES OR ANY PREDECESSOR OF THE NOTES WERE FIRST OFFERED TO PERSONS OTHER THAN DISTRIBUTORS (AS DEFINED IN RULE 902 OF REGULATION S) IN RELIANCE ON REGULATION S] ONLY (A) TO THE ISSUER, (B) PURSUANT TO A REGISTRATION STATEMENT WHICH HAS BEEN DECLARED EFFECTIVE UNDER THE U.S. SECURITIES ACT, (C) FOR SO LONG AS THE SECURITIES ARE ELIGIBLE FOR RESALE PURSUANT TO RULE 144A, TO A PERSON IT REASONABLY BELIEVES IS A "QUALIFIED INSTITUTIONAL BUYER" AS DEFINED IN RULE 144A THAT PURCHASES FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A, (D) PURSUANT TO OFFERS AND SALES THAT OCCUR OUTSIDE THE UNITED STATES IN COMPLIANCE WITH REGULATION S UNDER THE U.S. SECURITIES ACT OR (E) PURSUANT TO ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE U.S. SECURITIES ACT, SUBJECT IN EACH OF THE FOREGOING CASES TO ANY REQUIREMENT OF LAW THAT THE DISPOSITION OF ITS PROPERTY OR THE PROPERTY OF SUCH INVESTOR ACCOUNT OR ACCOUNTS BE AT ALL TIMES WITHIN ITS OR THEIR CONTROL AND IN COMPLIANCE WITH ANY APPLICABLE STATE SECURITIES LAWS AND ANY APPLICABLE LOCAL LAWS AND REGULATIONS AND FURTHER SUBJECT TO THE ISSUER'S AND THE TRUSTEE'S RIGHTS PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER (I)

PURSUANT TO CLAUSE (E) TO REQUIRE THE DELIVERY OF AN OPINION OF COUNSEL, CERTIFICATION AND/OR OTHER INFORMATION SATISFACTORY TO EACH OF THEM AND (II) IN EACH OF THE FOREGOING CASES, TO REQUIRE THAT A CERTIFICATE OF TRANSFER IN THE FORM APPEARING ON THE OTHER SIDE OF THIS NOTE IS COMPLETED AND DELIVERED BY THE TRANSFEROR TO THE TRUSTEE.

Each Global Note authenticated and delivered hereunder shall also bear the following legend:

THIS NOTE IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITORY OR A NOMINEE OF A DEPOSITORY OR A SUCCESSOR DEPOSITORY. THIS NOTE IS NOT EXCHANGEABLE FOR NOTES REGISTERED IN THE NAME OF A PERSON OTHER THAN THE DEPOSITORY OR ITS NOMINEE EXCEPT IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE, AND NO TRANSFER OF THIS NOTE (OTHER THAN A TRANSFER OF THIS NOTE AS A WHOLE BY THE DEPOSITORY TO A NOMINEE OF THE DEPOSITORY OR BY A NOMINEE OF THE DEPOSITORY TO THE DEPOSITORY OR ANOTHER NOMINEE OF THE DEPOSITORY) MAY BE REGISTERED EXCEPT IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), TO THE ISSUER OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

FORM OF CERTIFICATE TO BE DELIVERED
IN CONNECTION WITH TRANSFERS
PURSUANT TO REGULATION S

[], []

Citibank, N.A., London Branch
6th Floor, Citigroup Centre
Canada Square
London E14 5LB
United Kingdom
Attn: [●]
Facsimile: [●]

Re:

Global Ship Lease, Inc.'s (the "Issuer") 9.875% First Priority Secured Notes due 2022 (the "Notes")

Ladies and Gentlemen:

In connection with our proposed sale of \$360,000,000 aggregate principal amount of the Notes, we confirm that such sale has been effected pursuant to and in accordance with Regulation S under the U.S. Securities Act of 1933, as amended (the "Securities Act"), and, accordingly, we represent that:

- (1) we are not an affiliate of the Issuer and/or the Guarantors;
- (2) the offer of the Notes was not made to a person in the United States;

(3) either (a) at the time the buy offer was originated, the transferee was outside the United States or we and any person acting on our behalf reasonably believed that the transferee was outside the United States, or (b) the transaction was executed in, on or through the facilities of a designated offshore securities market and neither we nor any person acting on our behalf knows that the transaction has been prearranged with a buyer in the United States;

(4) no directed selling efforts have been made in the United States in contravention of the requirements of Rule 903(b) or Rule 904(b) of Regulation S, as applicable;

- (5) the transaction is not part of a plan or scheme to evade the registration requirements of the Securities Act; and
- (6) we have advised the transferee of the transfer restrictions applicable to the Notes.

You, as Trustee, the Issuer, counsel for the Issuer and others are entitled to conclusively rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceedings or official inquiry with respect to the matters covered hereby. Terms used in this certificate have the meanings set forth in Regulation S under the Securities Act.

Very truly yours,

[Name of Transferor]

By: _____
Authorized Signatory

FORM OF SUPPLEMENTAL INDENTURE
FOR ADDITIONAL GUARANTOR(S)

SUPPLEMENTAL INDENTURE (this “Supplemental Indenture”), dated as of _____, 20____, among (the “Guaranteeing Subsidiary”), a subsidiary of Global Ship Lease, Inc. (or its permitted successor), a Marshall Islands corporation, (the “Issuer”), the other Guarantors (as defined in the Indenture referred to herein) and Citibank, N.A., London Branch, as trustee (or its permitted successor) under the Indenture referred to below (the “Trustee”) and as security agent (or its permitted successor) under the Indenture referred to below (the “Security Agent”).

WITNESSETH

WHEREAS, the Issuer and the other Guarantors have heretofore executed and delivered to the Trustee an indenture (the “Indenture”), dated as of October 31, 2017 providing for the issuance of 9.875% First Priority Secured Notes due 2022 (the “Notes”);

WHEREAS, the Indenture provides that under certain circumstances the Guaranteeing Subsidiary shall execute and deliver to the Trustee a supplemental indenture pursuant to which the Guaranteeing Subsidiary shall unconditionally guarantee all of the Issuer’s obligations under the Notes and the Indenture on the terms and conditions set forth herein (the “Guarantee”); and

WHEREAS, pursuant to Section 9.01 of the Indenture, each of the Trustee and the Security Agent is authorized to execute and deliver this Supplemental Indenture.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Guaranteeing Subsidiary and the Trustee mutually covenant and agree for the equal and ratable benefit of the Holders as follows:

1. CAPITALIZED TERMS. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.
2. AGREEMENT TO GUARANTEE. The Guaranteeing Subsidiary hereby agrees to provide an unconditional Guarantee, on and subject to the terms, conditions and limitations set forth in the Indenture, including, but not limited, to Article Ten thereof.
3. NEW YORK LAW TO GOVERN. THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT GIVING EFFECT TO CONFLICTS OF LAW PRINCIPLES TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.
4. COUNTERPARTS. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

5. EFFECT OF HEADINGS. The Section headings herein are for convenience only and shall not affect the construction hereof.

6. THE TRUSTEE AND THE SECURITY AGENT. Neither the Trustee nor the Security Agent shall be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Guaranteeing Subsidiary and the Issuer.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed and attested, all as of the date first above written.

Dated: _____, 20[]

[GUARANTEEING SUBSIDIARY]

By: _____
Name:
Title:

By: _____
Name:
Title:

GLOBAL SHIP LEASE, INC.

By: _____
Name:
Title:

By: _____
Name:
Title:

CITIBANK, N.A., LONDON BRANCH as Trustee

By: _____
Authorized Signatory

CITIBANK, N.A., LONDON BRANCH, as Security Agent

By: _____
Authorized Signatory

FORM OF INCUMBENCY CERTIFICATE

The undersigned, _____, being the _____ of _____ (the "Issuer"), does hereby certify that the individuals listed below are qualified and acting officers of the Issuer as set forth in the right column opposite their respective names and the signatures appearing in the extreme right column opposite the name of each such officer is a true specimen of the genuine signature of such officer and such individuals have the authority to execute documents to be delivered to, or upon the request of, Citibank, N.A., London Branch, as Trustee under the Indenture dated as of October 31, 2017, by and between the Issuer, the guarantors party thereto, the Trustee and the other parties signatory thereto.

Name Title Signature

_____	_____	_____
_____	_____	_____
_____	_____	_____

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Certificate as of the _____ day of _____, 20__.

Name:
Title:

EXECUTION VERSION

FACILITY AGREEMENT

DATED 25 OCTOBER 2017

**GLOBAL SHIP LEASE, INC.
as the Borrower**

with

**CITIBANK, N.A., LONDON BRANCH
as Arranger**

**CITIBANK, N.A., LONDON BRANCH
as Bookrunner**

**CITIBANK EUROPE PLC, UK BRANCH
as Facility Agent**

**CITIBANK, N.A., LONDON BRANCH
as Security Agent**

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THIS AGREEMENT is dated 25 October 2017 and is made

BETWEEN:

- (1) **GLOBAL SHIP LEASE, INC.**, a corporation incorporated according to the laws of the Republic of the Marshall Islands with its registered office at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands MH 96960 (the **Borrower**);
- (2) **THE COMPANIES** listed in Part 1 of Schedule 1 (Original Parties) each of which is a corporation or a company formed according to the law of the country indicated against its name in Part 1 of Schedule 1 (Original Parties) (the **Original Guarantors**);
- (3) **CITIBANK, N.A., LONDON BRANCH** as mandated lead arranger (in this capacity the **Arranger**);
- (4) **CITIBANK, N.A., LONDON BRANCH** as bookrunner (in this capacity the **Bookrunner**);
- (5) **CITIBANK, N.A., LONDON BRANCH** as lender (the **Original Lender**);
- (6) **CITIBANK EUROPE PLC, UK BRANCH** as facility agent (the **Facility Agent**); and
- (7) **CITIBANK, N.A., LONDON BRANCH** as security trustee (the **Security Agent**).

IT IS AGREED as follows:

1. INTERPRETATION

1.1 Definitions

In this Agreement:

Acceptable Bank means:

- (a) a bank or financial institution which has a rating for its long-term unsecured and non credit enhanced debt obligations of BBB or higher by Standard & Poor's Rating Services or Fitch Ratings Ltd or Baa2 or higher by Moody's Investors Service Limited or a comparable rating from an internationally recognised credit rating agency; or
- (b) any other bank or financial institution approved by the Facility Agent.

Acceptable Charter means:

- (a) in respect of an Identified Vessel, the relevant Charter listed in Schedule 3 (Original Identified Vessels) relating to such Identified Vessel, with, as at the date of this Agreement, charter periods and charter rates detailed therein; or
- (b) in respect of an Additional Vessel, at the time such charter is entered into or, as the case may be, at the time the Borrower notifies the Facility Agent the Vessel is to be designated an Additional Vessel, a charter with an Acceptable Charterer; or
- (c) any other charter with an Acceptable Charterer in respect of a Vessel;

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provided that no charter will be an Acceptable Charter unless it is in full force and effect and such charter does not impose any obligations such that:

- (i) the Facility Agent is under any obligation or liability under any such charter or liable to make any payment under that charter; or
- (ii) the Facility Agent is obliged to enforce against any charterer (other than a Guarantor) any term of any such charter, or to make any enquiries as to the nature or sufficiency of any payment received by the Facility Agent; and

provided further that if the Security Agent is to enter into a letter of quiet enjoyment in respect of a Vessel in accordance with Clause 39, the relevant Obligor must use its reasonable commercial efforts to ensure that such charter does not contain a prohibition on the "owner" as defined in such charter undergoing a change of control.

Acceptable Charterer means (i) CMA CGM, (ii) any person who is not an Affiliate of the Borrower who may charter a Vessel from an Obligor from time to time, on an arm's length basis or (iii) subject to the prior written consent of the Facility Agent (acting on the instructions of the Majority Lenders) any Affiliate of the Borrower who may charter a Vessel from an Obligor from time to time, on an arm's length basis and, in respect of both (ii) and (iii), "arm's length basis" includes the use by the Borrower or the relevant Obligor of commercially reasonable efforts to obtain the market rate for such charter (taking into account all the relevant circumstances).

Accession Deed means a document substantially in the form set out in Schedule 11 (Form of Accession Deed).

Accounting Principles means U.S. GAAP, save that for the purposes of the Original Financial Statements only, Accounting Principles means, in the case of a Guarantor whose Original Jurisdiction is in Hong Kong, generally accepted accounting principles adopted and accepted in Hong Kong, and in the case of each other Original Guarantor, IFRS and in the case of an Additional Guarantor, either generally accepted accounting principles adopted and accepted in its Original Jurisdiction or IFRS (at the election of the Borrower).

Additional Guarantor means a company which becomes an Additional Guarantor in accordance with Clause 26 (Changes to the Obligors).

Additional Vessel means any new or used container vessel of a standard design which will be, from its Delivery Date, employed by way of Acceptable Charter, and in respect of which the Borrower has notified the Facility Agent that it wishes such vessel be designated as an Additional Vessel.

Administrative Party means the Arranger, the Bookrunner, the Facility Agent and the Security Agent.

Affiliate means a Subsidiary or a Holding Company of a person or any other Subsidiary of that Holding Company.

Agreement means this facility agreement, including any schedules or appendices hereto, as amended from time to time.

Applicable Law means any or all applicable law (whether civil, criminal or administrative), common law, statute, statutory instrument, treaty, convention, regulation, directive, by-law, demand, decree, ordinance, injunction, resolution, order, judgment, rule, permit, licence or restriction (in each case having the force of law) and codes of practice or conduct, circulars and guidance notes

generally accepted and applied by the global container shipping industry, in each case of any government, quasi-government, supranational, federal, state or local government, statutory or regulatory body, court, agency or association relating to all laws, rules, directives and regulations, national or international, public or private in any applicable jurisdiction from time to time.

Applicable Time means in respect of any Additional Vessel, the date upon which the Facility Agent receives all of the documents and evidence set out in Part 3 of Schedule 2 (Conditions Precedent) in relation to that Additional Vessel (save to the extent any such documents or evidence have been waived by the Facility Agent in relation to that Additional Vessel).

Appraised Value means, as of a specific date, in respect of an Additional Vessel, the fair market value that would be obtained for that Additional Vessel in an arm's-length transaction between an informed and willing seller under no compulsion to sell and an informed and willing buyer under no compulsion to buy, as determined by an Approved Valuer.

Approved Flag States means any of the flag states set out in Schedule 10 (Approved Flag States) or such other flag state as may be approved by the Facility Agent (acting in accordance with the instructions of the Majority Lenders).

Approved Valuer means any of Clarkson Valuations Limited, Maersk Broker A/S Howe Robinson Marine Evaluations Ltd., Braemar ACM Valuations Limited, Barry Rogliano Salles (BRS), Simpson Spence Young Shipbrokers Ltd., and E.A. Gibson Shipbrokers Ltd., (or any successor or affiliate of such firms through which valuations are commonly issued), provided that, at the time any such firm is to be utilised, such firm would qualify as an Independent Appraiser, or such other valuer as may be approved by the Facility Agent (acting in accordance with the instructions of the Majority Lenders).

Asset Sale has the meaning given to that term in Schedule 13 (Notes Restrictive Covenants).

Auditors means one of PricewaterhouseCoopers, Ernst & Young, KPMG or Deloitte & Touche or any of their successors or local affiliates or other independent public accountants of international standing or any other firm approved in advance by the Majority Lenders (such approval not to be unreasonably withheld or delayed).

Authorisation means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

Availability Period means the period from the date of this Agreement to and including the earlier of:

- (a) five (5) Business Days after the issuance of the Senior Secured Notes based on the Note Purchase Agreement; and
- (b) 30 November 2017.

Bail-In Action means the exercise of any Write-down and Conversion Powers.

Bail-In Legislation means:

- (a) in relation to an EEA Member Country which has implemented, or which at any time implements, Article 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms, the relevant implementing law or regulation as described in the EU Bail-In Legislation Schedule from time to time ; and

- (b) in relation to any other state, any analogous law or regulation from time to time which requires contractual recognition of any Write-down and Conversion Powers contained in that law or regulation.

Bond Engagement Letter means the engagement letter dated 9 October 2017 and entered into between Citigroup Global Markets Inc. and the Borrower.

Break Costs means the amount (if any) which a Lender is entitled to receive under paragraph (b) of Clause 22.3 (Break Costs).

Business Day means a day (other than a Saturday or a Sunday) on which banks are open for general business in London, Rotterdam, and New York and (in relation to any date for the payment or purchase of a currency other than Dollars) the principal financial centre of the country of that currency.

Cash and Cash Equivalents means, as at any date of determination:

- (a) cash in hand or on deposit with a bank or financial institution and which is freely transferable into Dollars and immediately available to be applied in repayment or prepayment of the Facility;
- (b) any investment in marketable obligations issued or guaranteed by the government of the United States of America, Canada or the United Kingdom or by an instrumentality or agency of the government of the United States of America, Canada or the United Kingdom, maturing within one year after the relevant date of calculation;
- (c) time deposits and certificates of deposit of any commercial bank having, or which is the principal banking subsidiary of a bank holding company having, a credit rating of either A by S&P or Fitch or A2 by Moody's which time deposits and certificates of deposit mature within one year after the relevant date of calculation;
- (d) repurchase obligations with a term of not more than ninety days for underlying securities of the type referred to in paragraph (b) above entered into with any bank meeting the qualifications specified in paragraph (c) above;
- (e) open market commercial paper:
 - (i) for which a recognised trading market exists;
 - (ii) issued in the United States of America, Canada or the United Kingdom;
 - (iii) which matures within one year after the relevant date of calculation; and
 - (iv) which has a credit rating of either A-1 by S&P or Fitch or P-1 by Moody's, or, if no rating is available in respect of the commercial paper, the issuer of which has, in respect of its long-term debt obligations, an equivalent rating;
- (f) any other instrument, security or investment approved by the Majority Lenders,

in each case, to which each of the Obligors is beneficially entitled at that time and, which is unencumbered (other than by any of the Security Documents).

Cash Balance means the sum of Cash and Cash Equivalents.

Change of Control means a “Change of Control” as defined in the Notes Restrictive Covenants.

Charter means, in relation to a Vessel, such Acceptable Charter entered into from time to time in respect of that Vessel in accordance with this Agreement.

Charter Guarantee means in relation to any Additional Vessel, the guarantee (if any) on arm’s length commercial terms, of the payment obligations and, if applicable, some or all of the other obligations, of the Acceptable Charterer of that Vessel under the related Acceptable Charter.

CMA CGM means CMA CGM S.A.

Collateral has the meaning given to that term in Schedule 13 (Notes Restrictive Covenants).

Collateral Account has the meaning given to that term in Schedule 13 (Notes Restrictive Covenant).

Commitment means:

- (a) for an Original Lender, the aggregate amount set opposite its name in Part 2 of Schedule 1 (Original Parties) under the heading Commitments and the amount of any other commitment to advance funds under this Agreement it acquires; and
 - (b) for any other Lender, the amount of any commitment to advance funds under this Agreement it acquires,
- to the extent not cancelled, transferred or reduced under this Agreement.

Compliance Certificate means a certificate substantially in the form set out in Schedule 7 (Compliance Certificate).

Confidential Information means all information relating to the Borrower, any Obligor, the Group, the Finance Documents or the Facility of which a Finance Party becomes aware in its capacity as, or for the purpose of becoming, a Finance Party or which is received by a Finance Party in relation to, or for the purpose of becoming a Finance Party under, the Finance Documents or the Facility from either:

- (a) any member of the Group or any of its advisers; or
- (b) another Finance Party, if the information was obtained by that Finance Party directly or indirectly from any member of the Group or any of its advisers,

in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes information that:

- (i) is or becomes public information other than as a direct or indirect result of any breach by that Finance Party of Clause 29 (Disclosure of Information); or
- (ii) is identified in writing at the time of delivery as non-confidential by any member of the Group or any of its advisers; or
- (iii) is known by that Finance Party before the date the information is disclosed to it in accordance with paragraphs (a) or (b) above or is lawfully obtained by that Finance Party after that date, from a source which is, as far as that Finance Party is aware, unconnected with the Group and which, in either case, as far as that Finance Party is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality.

Confidentiality Undertaking means a confidentiality undertaking substantially in the form set out in Schedule 12 (LMA Form of Confidentiality Undertaking) or in any other form agreed between the Borrower and the Facility Agent.

Constitutional Documents means the constitutional documents of the Obligor.

Debt Purchase Transaction means, in relation to a person, a transaction where such person:

- (a) purchases by way of assignment or transfer;
- (b) enters into any sub-participation in respect of; or
- (c) enters into any other agreement or arrangement having an economic effect substantially similar to a sub-participation in respect of, any Commitment or amount outstanding under this Agreement.

Debt Service means, for the Borrower, on a consolidated basis, the sum of:

- (a) Net Interest Expense;
- (b) scheduled repayments of borrowings, including in respect of borrowings under the Loan only scheduled repayments as set out in Schedule 15, and principal repayments of finance leases but excluding any and all amounts applied in redemption of the Senior Secured Notes; and
- (c) payments in respect of Disqualified Stock.

Debt Service Coverage Ratio means the ratio of EBITDA to Debt Service.

Default means:

- (a) an Event of Default; or
- (b) an event which would be (with the expiry of a grace period, the giving of notice or the making of any determination under the Finance Documents or any combination of them) an Event of Default.

Delegate means any delegate, agent, attorney or co-trustee appointed by the Security Agent.

Delivery Date means, in respect of an Additional Vessel, the date when the Guarantor who is the owner of that Additional Vessel accedes to this Agreement pursuant to clause 26.2.

Disqualified Stock has the meaning given to that term in Schedule 13 (Notes Restrictive Covenants).

Disruption Event means either or both of:

- (a) a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with the Facility (or otherwise in order for the transactions contemplated by the Finance Documents to be carried out) which disruption is not caused by, and is beyond the control of, any of the Parties; or

- (b) the occurrence of any other event which results in a disruption (of a technical or systems related nature) to the treasury or payments operations of a Party preventing that, or any other Party:
- (i) from performing its payment obligations under the Finance Documents; or
 - (ii) from communicating with other Parties in accordance with the terms of the Finance Documents,
- and which (in either such case) is not caused by, and is beyond the control of, the Party whose operations are disrupted.

Dollars or **US\$** means the lawful currency for the time being of the United States of America.

DSCR Test Date has the meaning given to that term in Clause 6.5 (Mandatory prepayment – Debt Service Coverage Ratio).

Earnings means, in respect of a Vessel, all present and future moneys and claims which are earned by or become payable to or for the account of the Borrower or other relevant Obligor in connection with the operation or ownership of that Vessel and including but not limited to:

- (a) freights, passage and hire moneys (howsoever earned);
- (b) remuneration for salvage and towage services;
- (c) demurrage and detention moneys;
- (d) all moneys and claims in respect of the requisition for hire of that Vessel;
- (e) payments received in respect of any off-hire insurance; and
- (f) payments received pursuant to any Charter Guarantee relating to that Vessel.

Earnings Account means, with respect to any Vessel, a bank account into which all Earnings with respect to such Vessel shall be deposited.

Earnings Account Security Agreement means a Security Interest granted with respect to an Earnings Account, as more particularly described at paragraph 2(c) of Part 3 of Schedule 2 (Conditions Precedent).

EBITDA means, for the Borrower, on a consolidated basis, the sum of:

- (a) revenue;
- (b) less operating expenses.

For the avoidance of doubt, depreciation and amortization, gains or losses on disposal of property and equipment, impairment of assets, amortization of government subsidies, income from associates and jointly controlled entities, and any other non operating income or expenses shall not be included in the calculation of EBITDA.

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.

Environment means:

- (a) any land including, without limitation, surface land and sub-surface strata, sea bed or river bed under any water (as referred to below) and any natural or man-made structures;
- (b) water including, without limitation, coastal and inland waters, surface waters, ground waters and water in drains and sewers; and
- (c) air including, without limitation, air within buildings and other natural or man-made structures above or below ground.

Environmental Affiliate means the members of the Restricted Group and any Manager of a Vessel together with their respective employees and all of those persons for whom the members of the Restricted Group or the Manager is responsible under any Applicable Law in respect of any activities undertaken in relation to any of the Vessels.

Environmental Approvals means any permit, licence, approval, ruling, variance, exemption or other authorisation required under applicable Environmental Laws.

Environmental Claim means any claim by any person or persons or any governmental, judicial or regulatory authority which arises out of any breach, contravention or violation of Environmental Law or of the existence of any liability or potential liability arising from such breach, contravention or violation or the presence of Hazardous Material in contravention of Environmental Laws. In this context, 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 by any governmental, judicial or regulatory authority; and any form of enforcement or regulatory action.

Environmental Laws means any or all Applicable Law relating to or concerning:

- (a) pollution or contamination of the Environment, any ecological system or any living organisms which inhabit the Environment or any ecological system;
- (b) the generation, manufacture, processing, distribution, use (including abuse), treatment, storage, disposal, transport or handling of Hazardous Materials; and
- (c) the emission, leak, release, spill or discharge into the Environment of noise, vibration, dust, fumes, gas, odours, smoke, steam, effluvia, heat, light, radiation (of any kind), infection, electricity or any Hazardous Material and any matter or thing capable of constituting a nuisance or an actionable tort or breach of statutory duty of any kind in respect of such matters,

including, without limitation, the following laws of the United States of America: the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, the Hazardous Materials Transportation Act, as amended, the Oil Pollution Act of 1990, as amended, the Resource Conservation and Recovery Act, as amended, and the Toxic Substances Control Act, as amended, together, in each case, with the regulations promulgated and the guidance issued pursuant thereto.

Event of Default means an event specified as such in Clause 18 (Default) of this Agreement.

Event of Loss has the meaning given to that term in Schedule 13 (Notes Restrictive Covenants).

Event of Loss Proceeds has the meaning given to that term in Schedule 13 (Notes Restrictive Covenants).

Existing 2019 Notes means the secured notes due 2019 issued by the Borrower pursuant to an indenture dated 19 March 2014 and made between, amongst others, the Borrower, and Deutsche Bank Trust Company Americas as trustee and security agent.

Existing DVB Facility Agreement means the term loan agreement entered into between DVB Bank SE and Global Ship Lease 20 Limited in respect of the m.v. OOCL Tianjin (tbrn "GSL Tianjin").

Existing Facilities means each of:

- (a) the Existing Revolving Credit Facility Agreement; and
- (b) the Existing DVB Facility Agreement.

Existing Revolving Credit Facility Agreement means the revolving credit facility agreement dated 19 March 2014 between amongst others Global Ship Lease Inc. as parent, Citibank International PLC as facility agent, Deutsche Bank Trust Company Americas as security agent and certain companies listed as borrowers and guarantors.

Existing Security Release Document means each document releasing any security granted in respect of the Existing Facility Agreements and the Existing 2019 Notes as listed in Schedule 8 Part 1 (Original Security Documents).

Facility means the credit facility made available under this Agreement.

Facility Office means in respect of a Lender, the office through which that Lender will perform its obligations under this Agreement from time to time, which at the date of this Agreement is the address shown for such Lender in Part 2 of Schedule 1 (Original Parties) or such other address as a Lender may notify to the Facility Agent from time to time.

Facility Reduction has the meaning given to that term in paragraph (a) of Clause 6.5 (Mandatory prepayment – Debt Service Coverage Ratio).

FATCA means:

- (a) sections 1471 to 1474 of the Code or any associated regulations;
- (b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; or
- (c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraphs (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction.

FATCA Application Date means:

- (a) in relation to a “withholdable payment” described in section 1473(1)(A)(i) of the Code (which relates to payments of interest and certain other payments from sources within the US), 1 July 2014;
- (b) in relation to a “withholdable payment” described in section 1473(1)(A)(ii) of the Code (which relates to “gross proceeds” from the disposition of property of a type that can produce interest from sources within the US), 1 January 2019; or
- (c) in relation to a “passthru payment” described in section 1471(d)(7) of the Code not falling within paragraphs (a) or (b) above, 1 January 2019,

or, in each case, such other date from which such payment may become subject to a deduction or withholding required by FATCA as a result of any change in FATCA after the date of this Agreement.

FATCA Deduction means a deduction or withholding from a payment under a Finance Document required by FATCA.

FATCA Exempt Party means a Party that is entitled to receive payments free from any FATCA Deduction.

Fee Letter means any letter entered into by reference to this Agreement between one or more Administrative Parties and the Borrower setting out the amount of certain fees referred to in this Agreement.

Final Maturity Date means the date falling three (3) years after the Utilisation Date.

Finance Document means this Agreement, any Accession Deed, any Compliance Certificate, any Fee Letter, the Intercreditor Agreement, any Security Document, the Request and any other document designated as a “Finance Document” by the Facility Agent and the Borrower.

Finance Party means a Lender or an Administrative Party.

Financial Indebtedness means any indebtedness for or in respect of:

- (a) moneys borrowed;
- (b) any acceptance credit;
- (c) any bond, note, debenture, loan stock or other similar instrument;
- (d) any redeemable preference share;
- (e) any agreement treated as a finance or capital lease in accordance with the Accounting Principles;
- (f) receivables sold or discounted (otherwise than on a non-recourse basis);
- (g) the acquisition cost of any asset to the extent payable after its acquisition or possession by the party liable where the deferred payment is arranged primarily as a method of raising finance or financing the acquisition of that asset;

- (h) any derivative transaction protecting against or benefiting from fluctuations in any rate or price (and, except for non-payment of an amount, the then mark to market value of the derivative transaction will be used to calculate its amount);
- (i) any other transaction (including any forward sale or purchase agreement) which has the commercial effect of a borrowing;
- (j) any counter-indemnity obligation in respect of any guarantee, indemnity, bond, letter of credit or any other instrument issued by a bank or financial institution; or
- (k) any guarantee, indemnity or similar assurance against financial loss of any person.

Financial Year means the annual accounting period of the Borrower ending on or about 31 December in each year.

General Assignment means, in respect of a Vessel, the English law governed deed of assignment of any Charter to the extent required to be granted by Schedule 13 (Notes Restrictive Covenants), the Earnings, the Ship Management Agreement, any Charter Guarantee in respect of a Charter required to be assigned, the Requisition Compensation and the Obligatory Insurances granted or to be granted in favour of the Security Agent by the relevant Obligor substantially in the form of Appendix 1 (Form of General Assignment) together with any and all notices and acknowledgements entered into in connection therewith.

Group means the Borrower and each of its Subsidiaries for the time being.

Group Structure Chart means the group structure chart in the agreed form.

GSLs means Global Ship Lease Services Limited (Company No. 06285694) a company incorporated in England and Wales, whose registered address is 150 Aldersgate Street, London, EC1A 4AB.

Guarantor means an Original Guarantor or an Additional Guarantor.

Hazardous Material means any element or substance, whether natural or artificial, and whether consisting of gas, liquid, solid or vapour, whether on its own or in any combination with any other element or substance, which is listed, identified, defined or determined by any Environmental Law or other Applicable Law to be, to have been, or to be capable of being or becoming harmful to mankind or any living organism or damaging to the Environment, including, without limitation, oil (as defined in the United States Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended).

Holding Company means:

- (a) in relation to a company incorporated in England and Wales, a holding company within the meaning of section 736 of the Companies Act 1985; and
- (b) in relation to a company or other person incorporated or formed outside England and Wales, a company or other person of which such company is the Subsidiary.

Identified Vessel means each of the Vessels listed under the heading "Identified Vessels" in Schedule 3 (Original Identified Vessels).

Impaired Agent means the Facility Agent at any time when:

- (a) it has failed to make (or has notified a Party that it will not make) a payment required to be made by it under the Finance Documents by the due date for payment;
- (b) the Facility Agent otherwise rescinds or repudiates a Finance Document;
- (c) an Insolvency Event has occurred and is continuing with respect to the Facility Agent;

unless, in the case of paragraph (a) above:

- (i) its failure to pay is caused by:
 - (A) administrative or technical error; or
 - (B) a Disruption Event; andpayment is made within three Business Days of its due date; or
- (ii) the Facility Agent is disputing in good faith whether it is contractually obliged to make the payment in question.

Independent Appraiser has the meaning given to that term in Schedule 13 (Notes Restrictive Covenants).

Intracompany Loans means any loan advanced by the Borrower to any other Obligor.

Intracompany Loans Assignment means the English law governed deed of assignment of the Intracompany Loans granted or to be granted in favour of the Security Agent by the Borrower substantially in the form of Appendix 2.

Insolvency Event in relation to an entity means that the entity:

- (a) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
- (b) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;
- (c) makes a general assignment, arrangement or composition with or for the benefit of its creditors;
- (d) institutes or has instituted against it, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organisation or the jurisdiction of its head or home office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation by it or such regulator, supervisor or similar official.

Insurers means the underwriters or insurance companies with whom any Obligatory Insurances are effected and the managers of any protection and indemnity or war risks association in which any of the Vessels may at any time be entered.

Intercreditor Agreement means the intercreditor agreement dated the same date as this Agreement and made between, among others, the Borrower, the Original Debtors (as defined in the Intercreditor Agreement) the Security Agent, the Facility Agent (as Term Agent), the Lenders (as Term Lenders), the Arranger, the note trustee in respect of the Senior Secured Notes and the Intra-Group Lenders (as defined in the Intercreditor Agreement).

Interest Expense means, for any Measurement Period, the aggregate amount of:

- (a) the accrued interest, commission, fees (excluding any upfront fees or costs), discounts, prepayment fees, premiums or charges and other finance payments (excluding any payments of principal) and including the interest (but not the capital) element of payments in respect of finance leases, whether paid or payable by any member of the Group (calculated on a consolidated basis for the Group); and
- (b) all dividends accrued or paid on any series of Disqualified Stock of the Borrower or any Disqualified Stock or preferred stock of any Subsidiary (other than any such Disqualified Stock or preferred stock held by the Borrower or a Subsidiary or to the extent paid in Qualified Equity Interests),

in respect of that Measurement Period.

Interest Period means each period determined under this Agreement by reference to which interest payable on the Loan or an overdue amount is calculated.

Interpolated Screen Rate means, in relation to LIBOR for the Loan, the rate (rounded to the same number of decimal places as the two relevant Screen Rates) which results from interpolating on a linear basis between:

- (a) the applicable Screen Rate for the longest period (for which that Screen Rate is available) which is less than the Interest Period of the Loan; and
- (b) the applicable Screen Rate for the shortest period (for which that Screen Rate is available) which exceeds the Interest Period of the Loan,

each as of 11:00 a.m. on the Rate Fixing Day.

ISM Code means the International Safety Management Code (including the guidelines on its implementation), adopted by the International Maritime Organization Assembly as Resolutions A.741(18) and A.788(19), as the same may have been or may be amended or supplemented from time to time. The terms “safety management system”, “Safety Management Certificate”, “Document of Compliance” and “major non-conformity” shall have the same meanings as are given to them in the ISM Code.

ISPS Code means the International Ship and Port Facility Security Code adopted by the International Maritime Organization Assembly as the same may have been or may be amended or supplemented from time to time.

ITA means the Income Tax Act 2007.

Legal Opinion means any legal opinion delivered to the Facility Agent under Clause 3.2 (Further conditions precedent) or Clause 27 (Changes to the Lenders).

Lender means:

- (a) an Original Lender; or
- (b) any person which becomes a party to this Agreement as a Lender after the date of this Agreement in accordance with Clause 27.1 (Assignments and transfers by Lenders);

which in each case has not ceased to be a Party as such in accordance with the terms of this Agreement and **Lenders** means all of them.

LIBOR means for an Interest Period of the Loan or overdue amount:

- (a) the applicable Screen Rate;
- (b) (if no Screen Rate is available for the Interest Period of the Loan) the Interpolated Screen Rate for the Loan; or
- (c) if:
 - (i) no Screen Rate is available for the currency of the Loan; or
 - (ii) no Screen Rate is available for the Interest Period of the Loan or overdue amount and it is not possible to calculate the Interpolated Screen Rate for the Loan,
the Reference Bank Rate,

as of 11.00 a.m. on the Rate Fixing Day for the offering of deposits in the currency of the Loan or overdue amount for a period comparable to that Interest Period, and if that rate is less than zero, LIBOR shall be deemed to be zero.

Loan means, unless otherwise stated in this Agreement, the principal amount of the borrowing under this Agreement or the principal amount outstanding of the borrowing.

London Business Day means a day (other than a Saturday or a Sunday) on which banks are open for business in London.

Majority Lenders means a Lender or Lenders whose Commitments aggregate more than $66\frac{2}{3}$ per cent. of the Total Commitments (or if the Total Commitments have been reduced to zero, aggregated more than $66\frac{2}{3}$ per cent. of the Total Commitments immediately prior to the reduction).

Manager means CMA Ships Ltd, Anglo-Eastern Ship Management Ltd, Wallem Group Limited, V-Ships, Wilhelmsen Ship Management, MSC Ship Management Limited, Columbia Ship Management (Deutschland) GmbH, E.R. Schifffahrt GmbH & Cie KG (or any successor or affiliate of such firms) or such other reputable and recognised managers of similar quality and standing selected by the Borrower in good faith.

Margin means 3.25 % per annum.

Material Adverse Effect means a material adverse effect on:

- (a) the business, prospects or financial condition of the Obligors as a group;
- (b) the ability of the Obligors as a group to perform all of their payment obligations under any Finance Document;
- (c) the validity or enforceability of, or the effectiveness or ranking of any Security Interest granted or purported to be granted pursuant to, any Finance Document other than illegality such that the Finance Parties would not have entered into this Agreement had such illegality been prevailing at that time; or

- (d) any material right or remedy of a Finance Party in respect of a Finance Document of such significance that the Finance Parties would not have entered into this Agreement had such material adverse effect been prevailing at the date of this Agreement.

Measurement Period means, in respect of any testing date, the immediately preceding six month period ending on that testing date.

Mortgage means, in respect of a Vessel, a first priority ship mortgage and, if relevant, deed of covenants granted by the relevant Obligor in favour of the Security Agent, in form and substance satisfactory to the Facility Agent (acting on the instructions of the Majority Lenders) having regard to the legal requirements in the relevant Approved Flag State.

Net Interest Expense means, in respect of the Borrower, on a consolidated basis, the sum of:

- (a) Interest Expense on Total Financial Debt,
- (b) less interest income from Cash and Cash Equivalents.

Net Proceeds has the meaning given to that term in Schedule 13 (Notes Restrictive Covenants).

New Lender has the meaning given to that term in Clause 27 (Changes to the Lenders).

Note Purchase Agreement means the agreement dated on or around the date of this Agreement between the Borrower and Citigroup Global Markets Inc. in relation to the purchase of the Senior Secured Notes. **Note Repurchase** has the meaning given to that term in Clause 16.17 (Note Purchase Condition).

Notes Liabilities means the Senior Secured Note Liabilities as defined in the Intercreditor Agreement.

Notes Restrictive Covenants means the covenants and related provisions contained in Schedule 13 (Notes Restrictive Covenants).

Notifiable Debt Purchase Transaction has the meaning given to that term in paragraph (b) of Clause 28.1 (Disenfranchisement on Debt Purchase Transactions entered into by Sponsor Affiliates).

Obligatory Insurances has the meaning given to that term in Schedule 13 (Notes Restrictive Covenants).

Obligor means the Borrower or a Guarantor.

Obligor's Agent means the Borrower, appointed to act on behalf of each Obligor in relation to the Finance Documents pursuant to Clause 2.2 (Obligors' Agent).

Original Financial Statements means:

- (a) in relation to the Borrower, its audited consolidated financial statements for the Financial Year ending 31 December 2016;
- (b) in relation to each Original Guarantor, its audited financial statements for its Financial Year ended 31 December 2016; and
- (c) in relation to any other Obligor, its audited financial statements delivered to the Facility Agent as required by Clause 26 (Changes to the Obligors).

Original Jurisdiction means, in relation to an Obligor, the jurisdiction under whose laws that Obligor is incorporated as at the date of this Agreement or, in the case of an Additional Guarantor, as at the date on which that Additional Guarantor becomes Party as a Guarantor.

Original Obligor means each Obligor as at the date this Agreement was entered into as set out in Schedule 1 Part 1 (Original Obligors).

Original Security Documents means each of the documents listed in Schedule 8Part 1, each of which will be dated on or about the date of this Agreement (Original Security Documents).

Party means a party to this Agreement or any Finance Document.

Permitted Security Interests has the meaning given to the term “Permitted Lien” in Schedule 13 (Notes Restrictive Covenants).

Pledge of Shares means a first priority pledge and/or charge of all of the issued share capital of each Obligor (other than the Borrower and GSLS) granted in favour of the Security Agent, together with any and all notice and acknowledgements and other ancillary documents entered into in connection therewith.

Pro Rata Share means:

- (a) for the purpose of determining a Lender’s share in the Facility, the proportion which its Commitment bears to the Commitments; and
- (b) for any other purpose on a particular date:
 - (i) the proportion which a Lender’s share of the Loan (if any) bears to the Loan;
 - (ii) if there is no Loan outstanding on that date, the proportion which its Commitment bears to the Commitments on that date; or if the Commitments have been cancelled, the proportion which its Commitment bore to the Commitments immediately before being cancelled.

Qualified Equity Interests has the meaning given to that term in Schedule 13 (Notes Restrictive Covenants).

Quotation Day means, in relation to any period for which an interest rate is to be determined, two Business Days before the first day of that period.

Rate Fixing Day means two London Business Days before the first day of the Interest Period, unless market practice differs in the London interbank market for Dollars, in which case the Rate Fixing Day will be determined by the Facility Agent in accordance with market practice in the London interbank market (and if quotations would normally be given by leading banks in the London interbank market on more than one day, the Rate Fixing Day will be the last of those days).

Receiver means a receiver or receiver and manager or administrative receiver of the whole or any part of the Security Assets.

Reference Bank Rate means the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Facility Agent at its request by the Reference Banks, either:

- (a) if:
 - (i) the Reference Bank is a contributor to the Screen Rate; and
 - (ii) it consists of a single figure
the rate (applied to the relevant Reference Bank and the relevant currency and period) which contributors to the Screen Rate are asked to submit to the relevant administrator; or
- (b) in any other case the rate at which the relevant Reference Bank could fund itself in Dollars for the relevant period with reference to the wholesale funding market.

Reference Banks means in relation to LIBOR, the principal London offices of HSBC Bank PLC, Deutsche Bank AG, JPMorgan Chase Bank N.A., BNP Paribas and Société Générale and any other bank or financial institution agreed between the Borrower and the Facility Agent (acting on the instructions of the Majority Lenders).

Related Assets has the meaning given to that term in Schedule 13 (Notes Restrictive Covenants).

Related Contracts means any or all of the following (as the context requires):

- (a) the Charters;
- (b) the Ship Management Agreements; and
- (c) the Charter Guarantees.

Related Fund in relation to a fund (the first fund), means a fund which is managed or advised by the same investment manager or investment adviser as the first fund or, if it is managed by a different investment manager or investment adviser, a fund whose investment manager or investment adviser is an Affiliate of the investment manager or investment adviser of the first fund.

Release means an emission, spill, release or discharge into or upon the air, surface water, groundwater, or soils of any Hazardous Materials for which any Obligor or the Manager has any liability under Environmental Law, except in accordance with a valid Environmental Approval.

Relevant Jurisdiction means, in relation to an Obligor:

- (a) its Original Jurisdiction; and
- (b) the jurisdiction whose laws govern the perfection of any of the Security Documents entered into by it.

Representative means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian.

Request means the request made by the Borrower for the Loan, substantially in the form of Part 1 of Schedule 5 (Payments).

Requisition Compensation means, in respect of a Vessel, all moneys or other compensation payable by reason of requisition for title to, or other compulsory acquisition of, that Vessel.

Resolution Authority means any body which has authority to exercise any Write-down and Conversion Powers.

Restricted Group means each Obligor and any other members of the Group, except for any Subsidiaries which do not own a vessel at the relevant time.

Restricted Party means any individual or entity that is:

- (a) listed on, or owned or controlled by an individual or entity listed on, or acting on behalf of an individual or entity listed on a Sanctions List;
- (b) the Government of a Sanctioned Country;
- (c) located in or incorporated under the laws of any Sanctioned Country; or
- (d) to the best knowledge of any member of the Group (acting with all due care and enquiry), otherwise a target of Sanctions.

Sanctioned Country means a country or territory which is the subject of Sanctions.

Sanctions means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by: (i) the US government, including the US Department of the Treasury (including OFAC), the US Department of State, or the US Department of Commerce, (ii) the United Nations Security Council, (iii) the European Union or (iv) Her Majesty's Treasury of the United Kingdom.

Sanctions List means any of the lists of specifically designated nationals or blocked individuals, vessels or entities (or equivalent) administered by (a) the US government, including the US Department of the Treasury (including OFAC), the US Department of State or the US Department of Commerce, (b) the United Nations Security Council, (c) the European Union or (d) Her Majesty's Treasury of the United Kingdom, each as amended, supplemented or substituted from time to time.

Screen Rate means the London interbank offered rate administered by ICE Benchmark Administration Limited (or any other person which takes over the administration of that rate) for the relevant currency and period displayed (before any correction, recalculation or republication by the administrator) on pages LIBOR01 or LIBOR02 of the Reuters screen (or any replacement Reuters page which displays that rate).

Secured Liabilities means all present and future obligations and liabilities (actual or contingent) of the Obligors to the Finance Parties or any of them under or in connection with any Finance Document.

Secured Parties has the meaning given to that term in the Intercreditor Agreement.

Security Assets means any asset which is the subject of a Security Interest created by a Security Document.

Security Documents means each of the Original Security Documents and any document required to be delivered to the Facility Agent under paragraphs 2(a) to 2(e) (inclusive) of Part 3 of Schedule 2 (Conditions Precedent) together with any other document entered into by an Obligor or any other person creating or expressed to create any Security Interest over all or any part of its assets in respect of the obligations of any of the Obligors under any of the Finance Documents or the Senior Secured Note Documents.

Security Interest means any mortgage, pledge, lien, charge, assignment, hypothecation or security interest or any other agreement or arrangement having a similar effect.

Selection Notice means a notice substantially in the form set out in Schedule 16.

Senior Secured Note Documents has the meaning given to that term in the Intercreditor Agreement.

Senior Secured Note Indenture has the meaning given to that term in the Intercreditor Agreement.

Senior Secured Notes has the meaning given to that term in the Intercreditor Agreement.

Senior Secured Noteholder has the meaning given to that term in the Intercreditor Agreement.

Ship Management Agreement means, in respect of a Vessel, the management agreement dated on or prior to the Delivery Date of such Vessel between the relevant Obligor being the owner of such Vessel and the Manager or such other management agreement entered into from time to time between the Manager and such Obligor.

S&P means Standard & Poor's Ratings Group and any successor thereto.

Sponsor Affiliate means CMA CGM and any of its affiliates.

Subsidiary has the meaning given to that term in Schedule 13 (Notes Restrictive Covenants).

Tax means any tax, levy, impost, duty or other charge or withholding of a similar nature (including, without limitation, any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

Tax Deduction means a deduction or withholding for or on account of Tax made from a payment under a Finance Document, other than a FATCA Deduction.

Tax Payment means either the increase in a payment made by an Obligor to a Finance Party under Clause 10.1 (Tax gross-up) or a payment under Clause 10.2 (Tax Indemnity).

Term Loan Period means the period commencing on the Utilisation Date and ending on the date when the Secured Liabilities are paid, performed and/or discharged in full.

Test Date has the meaning given to that term in Clause 17.2 (Cash Balance).

Total Financial Debt means, in respect of the Borrower, on a consolidated basis, the sum of all interest-bearing liabilities, being the sum of non-current financial debt and current financial debt; for the avoidance of doubt, obligations under finance leases shall be included and derivative financial instruments shall not be included in the calculation of interest-bearing liabilities.

Tranche has the meaning given to it in Clause 8.3.

Transaction Documents means the Finance Documents and the Senior Secured Note Documents.

Transaction Security means any Security Interest created or expressed to be created in favour of the Security Agent pursuant to the Security Documents.

Transfer Certificate means a certificate, substantially in the form of Schedule 6 (Form of Transfer Certificate), with such amendments as the Facility Agent and the Borrower may approve or reasonably require or any other form agreed between the Facility Agent and the Borrower.

U.S. GAAP means generally accepted accounting principles adopted and accepted in the United States of America (i) on the date of this Agreement when used in the context of calculating the financial covenants set out in Clause 17 (Financial Covenant) and the Debt Service Coverage Ratio and (ii) otherwise, from time to time.

Utilisation Date means the date on which the Facility is utilised.

Valuation means, in respect of an Additional Vessel, a certificate of an Approved Valuer dated not more than 30 days prior to the Delivery Date in respect of that Additional Vessel setting forth the Appraised Value of that Additional Vessel as of the date of that certificate.

VAT means:

- (a) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and
- (b) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) above, or imposed elsewhere.

Vessels means, together, the Identified Vessels and, from the Applicable Time, each Additional Vessel and Vessel means any of them.

Write-down and Conversion Powers means:

- (a) in relation to any Bail-In Legislation described in the EU Bail-In Legislation Schedule from time to time, the powers described as such in relation to that Bail-In Legislation in the EU Bail-In Legislation Schedule; and
- (b) in relation to any other applicable Bail-In Legislation:
 - (i) any powers under that Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers; and
 - (ii) any similar or analogous powers under that Bail-In Legislation.

1.2 Construction

- (a) In this Agreement, unless the contrary intention appears, a reference to:
 - (i) the Facility Agent, the Arranger, any Finance Party, any Lender, any Obligor, any Party, any Secured Party, the Security Agent or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Finance Documents and, in the case of the Security Agent, any person for the time being appointed as Security Agent or Security Agents in accordance with the Finance Documents;

- (ii) an amendment includes a supplement, novation, restatement or re-enactment and amended will be construed accordingly;
- (iii) assets includes present and future properties, revenues and rights of every description;
- (iv) an authorisation includes an authorisation, consent, approval, resolution, permit, licence, exemption, variance, filing, registration or notarisation;
- (v) charter means, in relation to a Vessel, any time charter, bareboat charter or voyage charter;
- (vi) disposal means a sale, transfer, grant, lease (other than a bareboat charter entered into on commercial terms) declaration of trust or other disposal, whether voluntary or involuntary, and dispose will be construed accordingly;
- (vii) indebtedness includes any obligation (whether incurred as principal or as surety and whether present or future, actual or contingent) for the payment or repayment of money;
- (viii) a person includes any individual, company, corporation, unincorporated association or body (including a partnership, trust, fund, joint venture or consortium), government, state, agency, organisation or other entity whether or not having separate legal personality and their successors in title, permitted assigns and permitted transferees;
- (ix) a regulation includes any regulation, rule, official directive, request, code or guideline (whether or not having the force of law but, if not having the force of law, being of a type with which any person to which it applies is accustomed to comply) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- (x) a currency is a reference to the lawful currency for the time being of the relevant country;
- (xi) a Default being outstanding means that it has not been cured, remedied or waived;
- (xii) a provision of law is a reference to that provision as extended, applied, amended or re-enacted and includes any subordinate legislation;
- (xiii) a Clause, a Subclause, a Schedule or an Appendix is a reference to a clause or subclause of, or a schedule to or appendix of, this Agreement;
- (xiv) a Finance Document or a Transaction Document or another document is a reference to that Finance Document, Transaction Document or other document as amended;
- (xv) a time of day is a reference to London time; and
- (xvi) words importing the plural shall include the singular and vice versa.

- (b) Unless the contrary intention appears, a reference to a month or months is a reference to a period starting on (and including) one day in a calendar month and ending on (but excluding) the numerically corresponding day in the next calendar month or the calendar month in which it is to end, except that:
- (i) if the numerically corresponding day is not a Business Day, the period will end on the next Business Day in that month (if there is one) or the preceding Business Day (if there is not);
 - (ii) if there is no numerically corresponding day in that month, that period will end on the last Business Day in that month; and
 - (iii) notwithstanding subparagraph (i) above, a period which commences on the last Business Day of a month will end on the last Business Day in the next month or the calendar month in which it is to end, as appropriate.
- (c) Unless expressly provided to the contrary in a Finance Document, a person who is not a party to a Finance Document may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999 and notwithstanding any term of any Finance Document, the consent of any third party is not required for any variation (including any release or compromise of any liability) or termination of that Finance Document.
- (d) Unless the contrary intention appears or unless the context otherwise permits:
- (i) a reference to a Party will not include that Party if it has ceased to be a Party under this Agreement;
 - (ii) a word or expression used in any other Finance Document or in any notice given in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement;
 - (iii) any obligation of any Obligor under the Finance Documents which is not a payment obligation remains in force in accordance with its terms for so long as any payment obligation of that Obligor is, may be or is capable of becoming outstanding under the Finance Documents;
- (e) Each of the Obligors agrees that any rights which it may have at any time during the term of the Facility by reason of the performance of its obligations under the Finance Documents to be indemnified by any other Obligor and/or to take the benefit of any security taken by the Facility Agent pursuant to the Finance Documents shall be exercised in such manner and on such terms as the Facility Agent may require or as provided in this Agreement. Each of the Guarantors agrees to hold any sums received by it as a result of its having exercised any such right on trust for the Facility Agent absolutely;
- (f) Each of the Obligors agrees that it will not at any time during the term of the Facility claim any set-off or counterclaim against any other Obligors in respect of any liability owed to it by that other Obligor under or in connection with the Finance Documents, nor prove in competition with any of the Finance Parties in any liquidation of (or analogous proceeding in respect of) any other Obligor in respect of any payment made under the Finance Documents or in respect of any sum which includes the proceeds of realisation of any security held by the Facility Agent for the repayment of the Loans; and
- (g) Any notices given by the Borrower or statements made by it, instructions given by it to any Finance Party or decisions made by it, will be conclusive and binding on all of the Obligors.
- (h) The headings in this Agreement do not affect its interpretation.

2. FACILITY AND PURPOSE

2.1 Facility

Subject to the terms of this Agreement, the Lenders make available to the Borrower a Dollar term loan facility in an aggregate amount equal to the Commitments.

2.2 Obligors' Agent

- (a) Each Obligor (other than the Borrower) by its execution of this Agreement or an Accession Deed irrevocably appoints the Borrower (acting through one or more authorised signatories) to act on its behalf as its agent in relation to the Finance Documents and irrevocably authorises:
- (i) the Borrower on its behalf to supply all information concerning itself contemplated by this Agreement to the Finance Parties and to give all notices and instructions, to execute on its behalf any Accession Deed, to make such agreements and to effect the relevant amendments, supplements and variations capable of being given, made or effected by any Obligor notwithstanding that they may affect the Obligor, without further reference to or the consent of that Obligor; and
 - (ii) each Finance Party to give any notice, demand or other communication to that Obligor pursuant to the Finance Documents to the Borrower,

and in each case the Obligor shall be bound as though the Obligor itself had given the notices and instructions or executed or made the agreements or effected the amendments, supplements or variations, or received the relevant notice, demand or other communication.

- (b) Every act, omission, agreement, undertaking, settlement, waiver, amendment, supplement, variation, notice or other communication given or made by the Obligors' Agent or given to the Obligors' Agent under any Finance Document on behalf of another Obligor or in connection with any Finance Document (whether or not known to any other Obligor and whether occurring before or after such other Obligor became an Obligor under any Finance Document) shall be binding for all purposes on that Obligor as if that Obligor had expressly made, given or concurred with it. In the event of any conflict between any notices or other communications of the Obligors' Agent and any other Obligor, those of the Obligors' Agent shall prevail.

2.3 Purpose

The Loan may be used only in or towards repayment of the amounts outstanding under the Existing Facilities including, if the Existing DVB Facility is repaid prior to drawdown of the Loan, in reimbursement for the repayment of the Existing DVB Facility.

2.4 No obligation to monitor

No Finance Party is obliged to monitor or verify the utilisation of the Loan.

2.5 Nature of a Finance Party's rights and obligations

Unless otherwise agreed by all the Finance Parties:

- (a) the obligations of a Finance Party under the Finance Documents are several;

- (b) failure by a Finance Party to perform its obligations does not affect the obligations of any other Party under the Finance Documents;
- (c) no Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents;
- (d) the rights of a Finance Party under the Finance Documents are separate and independent rights;
- (e) a Finance Party may, except as otherwise stated in the Finance Documents, separately enforce those rights, provided always that no Finance Party shall act separately unless (i) the Facility Agent has failed to act and the Facility Agent has not been replaced in accordance with Clause 19.12 (Resignation of the Facility Agent) or (ii) as a matter of law, the Facility Agent cannot represent them; and
- (f) a debt arising under the Finance Documents to a Finance Party is a separate and independent debt. The rights of each Finance Party under the Finance Documents and any part of the Loan or any other amount owed by an Obligor which relates to a Finance Party's participation in the Facility or its role under a Finance Document (including such amount payable to the Facility Agent on its behalf) is a debt owing to that Finance Party by that Obligor.

3. CONDITIONS PRECEDENT

3.1 Initial conditions precedent

- (a) The Request may not be given unless the Facility Agent has received (or waived receipt of) all of the documents and other evidence listed in Part 1 of Schedule 2 (Conditions Precedent) in form and substance satisfactory to the Facility Agent. The Facility Agent must notify the Borrower and the Lenders promptly on being so satisfied.
- (b) Except to the extent that the Majority Lenders notify the Facility Agent to the contrary before the Facility Agent gives the notification described in paragraph (a) above, each Lender authorises (but does not require) the Facility Agent to give that notification. The Facility Agent will not be liable for any cost, loss or liability whatsoever any person incurs as a result of the Facility Agent giving any such notification.

3.2 Further conditions precedent

The Lenders will not be obliged to advance the Loan unless:

- (a) on the Utilisation Date, the Facility Agent has received (or waived receipt of) all of the documents and other evidence listed in Part 2 of Schedule 2 (Conditions Precedent) in form and substance satisfactory to the Facility Agent. The Facility Agent must notify the Borrower and Lenders promptly as being so satisfied. The Facility Agent will not be liable for any cost, loss or liability whatsoever any person incurs as a result of the Facility Agent giving any such notification; and
- (b) on the date of the Utilisation Request and on the proposed Utilisation Date,
 - (i) no Default is continuing or would result from the proposed Loan; and
 - (ii) the Repeating Representations to be made by each Obligor are true in all material respects.

3.3 Waiver and instruction

- (a) The conditions specified in this Clause 3 are for the sole benefit of the Finance Parties and may be waived or deferred in whole or in part by the Facility Agent (acting on the instructions of the Majority Lenders).
- (b) If any of the conditions specified in this Clause 3 is not satisfied on the date of the Utilisation Request and the Facility Agent (acting on the instructions of the Majority Lenders) agrees in writing to waive the same, the Borrower must (unless the Facility Agent expressly agrees otherwise in writing, acting on the instructions of the Majority Lenders) ensure that the condition is satisfied within the time period specified in writing by the Facility Agent. If the condition is then not satisfied, then the Majority Lenders may, by notice from the Facility Agent to the Borrower, declare that it is an Event of Default.

3.4 Conditions Subsequent to Utilisation or Accession of an Additional Guarantor

Immediately following the Utilisation Date or, as the case may be, the date of the accession of an Additional Guarantor, the Borrower must provide to the Facility Agent all documents and evidence relating to the relevant Vessel or Vessels set out in Schedule 4 (Conditions Subsequent to Utilisation) in form and substance satisfactory to the Facility Agent. The Facility Agent may request the instruction of the Majority Lenders as to whether any documents or other evidence provided by the Borrower pursuant to this Clause 3 are satisfactory. If any of these documents or evidence is not provided to the Facility Agent within the time periods prescribed therein, the Majority Lenders may, by notice from the Facility Agent to the Borrower, declare that it is an Event of Default.

4. UTILISATION

4.1 Giving of Request

- (a) The Borrower may borrow the Loan by giving to the Facility Agent a duly completed Request.
- (b) Unless the Facility Agent otherwise agrees acting on the instructions of the Majority Lenders, the latest time for receipt by the Facility Agent of a duly completed Request is 11.00 a.m. three (3) Business Days prior to the date of the proposed borrowing (or such shorter period as the Facility Agent shall agree).
- (c) The Request is irrevocable.

4.2 Completion of Requests

The Request for the Loan will only be regarded as having been duly completed if:

- (a) the Utilisation Date is a Business Day falling within the Availability Period;
- (b) the currency specified in the Request is Dollars;
- (c) the amount requested for the Loan does not exceed the Commitments; and
- (d) the initial proposed Interest Period for the Loan complies with this Agreement.

4.3 Advance of Loan

- (a) The Facility Agent must promptly notify each Lender of the details of the requested Loan and the amount of its share in the Loan.
- (b) The amount of each Lender's share of the Loan will be its Pro Rata Share on the proposed Utilisation Date.
- (c) No Lender is obliged to participate in the Loan if, as a result, its share in the Loan would exceed its Commitment or the Loan would exceed the Commitments.
- (d) If the conditions set out in this Agreement have been met, each Lender must make its share in the requested Loan available by the Utilisation Date through its Facility Office.

5. REPAYMENT

5.1 Repayment

- (a) Subject to clause 5.2 (Substitute schedules) the Borrower shall repay the Loan in full by 6 consecutive instalments of principal on each Payment Date in the amount set out opposite such Payment Date in Schedule 15 (Repayment Schedule).
- (b) If any amount of principal or interest in respect of the Loan remain outstanding as at the Final Maturity Date, all such amounts shall be repaid on the Final Maturity Date.

5.2 Substitute schedules

- (a) Schedule 15 (Repayments) has been prepared as at the date of this Agreement on the assumption that:
 - (i) the Utilisation Date will be 31 October 2017;
 - (ii) the amount of the Loan advanced under this Agreement will be US\$54,800,000;
 - (iii) the Loan will not be prepaid in whole or in part.
- (b) If any of the above assumptions proves to be incorrect (then, as soon as reasonably practicable, the Facility Agent shall prepare a substitute Schedule 15 (Repayment Schedule) on the same basis as the existing Schedule 15 (Repayment Schedule) but reflecting the correct Utilisation Date, aggregate amount of the Loan advanced or, as the case may be, principal amount of the Loan outstanding after any such prepayment.
- (c) The Facility Agent shall provide the Lenders and the Borrower, with a copy of the substitute Schedule 2 (Repayments) immediately following its preparation.
- (d) Upon the receipt by the Lenders and the Borrower of the substitute Schedule 15 (Repayments) that substitute schedule will replace the existing Schedule 15 (Repayment Schedule) and all repayments of the Loan will, subject to the further application of clause 5.2(a), be made in accordance with the substitute Schedule 15 (Repayment Schedule).

5.3 Reborrowing

The Borrower may not reborrow any part of the Facility which is repaid.

6. PREPAYMENT AND CANCELLATION

6.1 Illegality

- (a) If it becomes, or to the knowledge of any Lender is to become, unlawful in any jurisdiction for a Lender to perform any of its obligations as contemplated by this Agreement or a Finance Document or to fund or maintain its share in the Loan (the Event of Illegality), that Lender shall notify the Facility Agent and the Borrower.
- (b) After notification under paragraph (a) above, the Facility Agent shall notify the Borrower promptly and:
 - (i) the Borrower shall repay or prepay the share of that Lender in the Loan on the date specified in paragraph (c) below; and
 - (ii) the Commitment of that Lender will be immediately cancelled.
- (c) The date for repayment or prepayment of a Lender's share in the Loan will be the date specified by that Lender in the notice delivered to the Borrower (being no earlier than the last day of any applicable grace period permitted by Applicable Law or, if earlier, and the Borrower so desires, the last day of the current Interest Period).

6.2 Change of Control

Upon the occurrence of a Change of Control the Facility will be cancelled and the outstanding Loan, together with accrued interest and all other amounts accrued under the Finance Documents, shall become immediately due and payable.

6.3 Disposal Proceeds

- (a) Subject to paragraph 2 of Schedule 13 (Notes Restrictive Covenants), the Borrower shall ensure that, in respect of:
 - (i) the Net Proceeds from an Asset Sale involving Collateral; and
 - (ii) any Event of Loss Proceeds involving Collateral,it shall promptly pay or shall direct the Security Agent to pay such amounts firstly to the Facility Agent in prepayment of all amounts then outstanding under the Loan and thereafter in accordance with paragraph 4 or paragraph 5 (as applicable) of Schedule 13 (Notes Restrictive Covenants).
- (b) Until the payment referred to in paragraph (a) above is made, the relevant Net Proceeds or Event of Loss Proceeds will be held in the Collateral Account or otherwise on a blocked account charged or otherwise pledged in favour of the Security Agent. If the Net Proceeds take the form of Cash Equivalents, a substitute vessel or related assets as contemplated by paragraph 2 of Schedule 13 (Notes Restrictive Covenants), equivalent security over such Cash Equivalents, substitute vessel or related asset(s) appropriate to the form of such Cash Equivalents, vessel or related asset will be provided by the Borrower in favour of the Security Agent, in a form and substance acceptable to the Security Agent, simultaneously with the completion of the sale of the relevant Vessel.

6.4 Mandatory prepayment – amortisation offer under Senior Secured Note Documents

- (a) The Borrower shall ensure that, to the extent that any annual amortisation offer made by the Borrower to the Senior Secured Noteholders pursuant to the Senior Secured Note Indenture is not accepted by the Senior Secured Noteholders (in whole or in part) and an amount in excess of US\$100,000 remains (the **Unutilised Note Amortisation Amount**), it shall promptly pay an amount equal to the Unutilised Note Amortisation Amount to the Facility Agent in prepayment of all amounts then outstanding under the Loan or, if the amounts outstanding under the Loan are less than the Unutilised Note Amortisation Amount, such proportion of the Unutilised Note Amortisation Amount as is necessary to prepay in full all amounts then outstanding under the Loan.
- (b) In each consecutive period of 12 months during the Term Loan Period, the first of which will commence on the Utilisation Date, the aggregate of (i) repayments of the Loan made by the Borrower pursuant to the repayment Schedule in Schedule 15, (ii) the aggregate principal amount of the Senior Secured Notes surrendered by the holders thereof following the relevant annual amortisation offer made by the Borrower to the Senior Secured Noteholders pursuant to the Senior Secured Note Indenture for that period, and (iii) any amount applied in prepayment of the Loan pursuant to Clause 6.4(a) above, must not exceed US\$40,000,000.

6.5 Mandatory prepayment – Debt Service Coverage Ratio

If:

- (a) in respect of a Measurement Period ending on 30 June and 31 December, commencing 30 June 2018, for the duration of the Term Loan Period up until the date when Loan is US\$15,000,000 or less (each a **DSCR Test Date**), the Debt Service Coverage Ratio is less than 1.0:1.0 for Measurement Periods up to and including that ending on 31 December 2019 and 0.8:1.0 thereafter, then, immediately upon delivery of the relevant Compliance Certificate in accordance with paragraph (b) of Clause 15.3 (Compliance Certificate) the Borrower shall ensure any excess outstanding under the Loan above US\$15,000,000 is prepaid within 3 Business Days of such date (a **Facility Reduction**);
- (b) for the avoidance of doubt, not more than one Facility Reduction shall take place pursuant to paragraph (a) of this Clause 6.5 and following that Facility Reduction, the Debt Service Coverage Ratio will not be required to be set out in any Compliance Certificate.

6.6 Automatic cancellation

The Commitments shall be automatically cancelled if Senior Secured Notes in an aggregate principal amount giving rise to gross proceeds of not less than US\$360,000,000 have not been issued within 30 days of the date of this Agreement.

6.7 Voluntary prepayment of Loans

The Borrower may, if it gives the Facility Agent not less than three Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, prepay the whole or any part of the Loan (but, if in part, being an amount that reduces the Loan by a minimum amount of US\$1,000,000 (or such lesser amount agreed by the Facility Agent)).

6.8 Voluntary prepayment in relation to a single Lender

- (a) If an Obligor is, or will be, required to pay to a Lender a Tax Payment or an Increased Cost, the Borrower may, while the requirement continues, give notice to the Facility Agent requesting prepayment in respect of that Lender.
- (b) After notification under paragraph (a) above that Borrower must repay or prepay that Lender's share in the Loan on the date specified in paragraph (c) below; and
- (c) The date for repayment or prepayment of a Lender's share in the Loan will be the last day of the current Interest Period for the relevant Loan or, if earlier, the date specified by the Borrower in the notice delivered to the Facility Agent.

6.9 Miscellaneous provisions

- (a) Any notice of prepayment under this Agreement is irrevocable and must specify the relevant date(s). The Facility Agent must notify the Lenders promptly of receipt of any such notice.
- (b) All prepayments under this Agreement must be made with accrued interest on the amount prepaid. No premium or penalty is payable in respect of any prepayment except for Break Costs (if any).
- (c) No prepayment is allowed except in accordance with the express terms of this Agreement.
- (d) Any prepayment of the Loan (other than a prepayment pursuant to Clause 6.1 (Illegality) or Clause 6.8 (Voluntary prepayment in relation to a single Lender)) shall be applied pro rata to each Lender's participation in the Loan and in inverse order of its maturity.
- (e) On the last day of the Availability Period all of the Commitments shall be cancelled.
- (f) If there is a partial prepayment of the Loan under this Clause 6, the Borrower may specify to which Tranche or Tranches (if there is then more than one) it wishes the prepayment to be applied, and in which order. If no Tranche is specified, the Facility Agent will apply the prepayment pro rata across all Tranches then outstanding.

7. INTEREST

7.1 Calculation of interest

- (a) The rate of interest on the Loan for each Interest Period is the percentage rate per annum equal to the aggregate of:
 - (i) the applicable Margin from time to time; and
 - (ii) LIBOR(together, the **Interest Rate**).
- (b) Interest shall be calculated by reference to the actual number of days elapsed and on the basis of a year of 360 days. Interest shall accrue from and including the first day of each Interest Period to but excluding the last day of such Interest Period.

7.2 Payment of interest

Except where it is provided to the contrary in this Agreement, the Borrower must pay accrued interest on the Loan (or, as the case may be, the relevant Tranche) on the last day of each Interest Period and also, if the Interest Period is longer than three months, on the dates falling at quarterly intervals after the first day of that Interest Period.

7.3 Interest on overdue amounts

- (a) If an Obligor fails to pay any amount payable by it under the Finance Documents, the Obligors must immediately on demand by the Facility Agent pay interest on the overdue amount from its due date up to the date of actual payment, both before, on and after judgment.
- (b) If the overdue amount is a principal amount of the Loan or is an amount accruing in respect of interest on the Loan or, as the case may be, a Tranche, and becomes due and payable prior to the last day of its current Interest Period, then:
 - (i) the first Interest Period for that overdue amount will be the unexpired portion of that Interest Period and the rate of interest on the overdue amount for that first Interest Period will be two per cent. per annum above the Interest Rate; and
 - (ii) thereafter, any subsequent Interest Period for that overdue amount shall be selected by the Facility Agent (acting on the instructions of the Majority Lenders, acting reasonably) who may select successive Interest Periods of any duration up to three months, and the rate of interest on the overdue amount will be two per cent. per annum above the Interest Rate.

After the expiry of the first Interest Period for that overdue amount, the rate on the overdue amount will be calculated in accordance with paragraph (c) below.

- (c) In respect of any amounts outstanding other than in accordance with paragraph (b) above, interest on such overdue amount is payable at a rate determined by the Facility Agent to be two (2) per cent. per annum above the Interest Rate. For this purpose, the Facility Agent may (acting on the instructions of the Majority Lenders, acting reasonably) select successive Interest Periods of any duration of up to six months.
- (d) Interest (if unpaid) on an overdue amount will be compounded with that overdue amount at the end of each of its Interest Periods but will remain immediately due and payable.

7.4 Notification of rates of interest

The Facility Agent must promptly notify each Finance Party and the Borrower of the determination of a rate of interest under this Agreement.

8. INTEREST PERIODS

8.1 Interest Periods

- (a) The Borrower must select the first Interest Period for the Loan in the Utilisation Request, and may select subsequent Interest Periods for the Loan or for individual Tranches in a Selection Notice.

- (b) Subject to this clause 8, the Borrower may select an Interest Period of 1, 2, 3 or 6 months or any other period agreed between the Borrower and the Facility Agent (acting on the instructions of all the Lenders), provided that if at any time there is more than one Tranche, the Borrower must select an Interest Period for at least one Tranche, which comprises an amount equal to at least the amount of the next repayment of principal due under this Agreement pursuant to Clause 5, which will have an interest period ending on such next repayment date.
- (c) Each Selection Notice is irrevocable and must be delivered to the Facility Agent by the Borrower not later than 11:00 a.m., three Business Days before the end of the then current Interest Period.
- (d) If the Borrower fails to deliver a Selection Notice to the Facility Agent by 11:00 a.m., three Business Days before the end of the then current Interest Period, the relevant Interest Period will be six (6) months.
- (e) The first Interest Period for the Loan will start on the Utilisation Date and each subsequent Interest Period for the Loan or, as the case may be, a Tranche, will start on the last day of the preceding Interest Period.

8.2 Non-Business Days

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

8.3 Division of Loan

Subject to the other provisions of this Agreement, if a Borrower requests in a Selection Notice that the Loan be divided into two or more tranches (each a “**Tranche**”), the Loan will, on the last day of its then current Interest Period, be divided as specified in that Selection Notice. The Loan may not be divided into more than 3 Tranches at any one time.

8.4 No overrunning the Final Maturity Date

If an Interest Period would otherwise overrun the Final Maturity Date, it will be shortened so that it ends on the Final Maturity Date.

9. MARKET DISRUPTION

9.1 Failure of the Reference Bank to supply a rate

If LIBOR is to be calculated by reference to the Reference Banks but a Reference Bank does not supply a rate by 11.00 a.m. on the Rate Fixing Day, the applicable LIBOR will be determined on the basis of the remaining Reference Banks.

9.2 Market disruption

- (a) A market disruption event shall arise where:
 - (i) no, or only one, Reference Bank supplies a rate by 11.00 a.m. on the Rate Fixing Day; or
 - (ii) the Facility Agent receives by close of business on the Rate Fixing Day notification from any Lender or Lenders (the **Affected Lenders**) whose aggregate shares in the Loan exceed fifty per cent. of the Loan that the cost to them of obtaining matching deposits in the relevant interbank market is in excess of LIBOR for the relevant Interest Period.
- (b) The Facility Agent must promptly notify the Borrower and the Lenders of a market disruption event.
- (c) After notification under paragraph (b) above, the rate of interest for the Affected Lenders on the affected Loan for the relevant Interest Period will be the aggregate of:
 - (i) the Margin; and
 - (ii) the rate notified to the Facility Agent by those Affected Lenders as soon as practicable, and in any event before interest is due to be paid in respect of that Interest Period, to be that which expresses as a percentage rate per annum the cost to those Affected Lenders of funding the Loan from whatever source each of them may reasonably select.

9.3 Alternative basis of interest or funding

- (a) If a market disruption event occurs and the Facility Agent or the Borrower so require, the Borrower and the Facility Agent must enter into negotiations for a period of not more than thirty days with a view to agreeing to an alternative basis for determining the rate of interest and/or funding for the Loan.
- (b) Any alternative basis agreed between the Borrower and the Facility Agent will be, with the prior written consent of all the Lenders, binding on all the Parties hereto.

10. TAXES

10.1 Tax gross-up

- (a) Each Obligor must make all payments to be made by it under the Finance Documents without any Tax Deduction, unless a Tax Deduction is required by an Applicable Law.
- (b) If the Borrower or a Lender is aware that an Obligor must make a Tax Deduction (or that there is a change in the rate or the basis of a Tax Deduction), it must promptly notify the Facility Agent. The Facility Agent must then promptly notify the affected Parties.
- (c) If a Tax Deduction is required by an Applicable Law to be made by an Obligor or, as the case may be, the Facility Agent, the amount of the payment due from that Obligor will be increased so that the amount (after making the Tax Deduction) received by the recipient is equal to the payment which would have been due if no Tax Deduction had been required.
- (d) If an Obligor is required to make a Tax Deduction, that Obligor must make the minimum Tax Deduction allowed by Applicable Law and must make any payment required in connection with that Tax Deduction within the time allowed by the Applicable Law.
- (e) Within fifteen days of making either a Tax Deduction or a payment required in connection with a Tax Deduction the Obligor making the Tax Deduction must deliver to the Facility Agent for the relevant Finance Party, documents or other information (or certified copies thereof) evidencing satisfactorily to that Finance Party (acting reasonably) that the Tax Deduction has been made or (as applicable) the appropriate payment has been paid to the relevant taxing authority.

10.2 Tax Indemnity

- (a) Without prejudice to the provisions of Clause 10.1 (Tax gross-up), if any Lender is required to make any payment on account of Tax in respect of any Finance Document (not being a Tax imposed on the net income of a Lender or its Facility Office by the jurisdiction in which it is incorporated (or, if different, the jurisdiction in which it is treated as resident for tax purposes), or the jurisdiction in which its Facility Office is located or on the capital of that Lender employed in such jurisdiction or jurisdictions) on any sum received or receivable under the Finance Documents (including, without limitation, any sum received or receivable under this Clause 10.2) or any liability in respect of any such payment is imposed, levied or finally assessed against a Lender, the Obligors shall (within three Business Days of demand on the Borrower by the Facility Agent) indemnify that Lender against such payment or liability, together with any interest, penalties and expenses payable or incurred in connection therewith.
- (b) Paragraph (a) of Clause 10.2 (Tax Indemnity) above shall not apply to the extent a loss, liability or cost is compensated for by an increased payment under Clause 10.1 (Tax gross-up).

10.3 Tax Credit

If a Lender or, as the case may be, the Facility Agent determines in its absolute discretion, acting in good faith, that it has received, realised, utilised and retained a Tax benefit by reason of any deduction or withholding in respect of which the Borrower has made an interest payment or paid a compensating sum under this Clause 10 (Taxes), that Lender or, as the case may be, the Facility Agent shall, provided it has received all amounts which are then due and payable by the Obligors under any of the provisions of this Agreement and the other Finance Documents, pay to the Borrower (to the extent that that Lender or, as the case may be, the Facility Agent can do so without prejudicing the amount of that benefit and the right of that Lender, or as the case may be, the Facility Agent to obtain any other benefit, relief or allowance which may be available to it), such amount, if any, as that Lender, or as the case may be, the Facility Agent shall determine in its absolute discretion acting in good faith, will leave that Lender, or as the case may be, the Facility Agent in no better and no worse position than it would have been in if the deduction or withholding had not been required and so that it retains no benefit as a result of the receipt of such deduction.

10.4 Notification of Claim

A Lender making, or intending to make, a claim under Clause 10.2 (Tax Indemnity) shall promptly notify the Facility Agent of the event which will give, or has given, rise to the claim, following which the Facility Agent shall notify the Borrower.

10.5 Conduct of Business by the Finance Parties

No provision of this Agreement will:

- (a) interfere with the right of any Finance Party to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;

- (b) oblige any Finance Party to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or
- (c) oblige any Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

10.6 Stamp taxes

Each Obligor must pay and, within three Business Days of demand, indemnify each Finance Party against any stamp duty, registration or other similar Tax payable by a Finance Party in connection with the entry into, performance or enforcement of any Finance Document.

10.7 Value added taxes

- (a) All amounts expressed to be payable under a Finance Document by any Party to a Finance Party which (in whole or in part) constitute the consideration for any supply for VAT purposes are deemed to be exclusive of any VAT which is chargeable on that supply, and accordingly, subject to paragraph (b) below, if VAT is or becomes chargeable on any supply made by any Finance Party to any Party under a Finance Document and such Finance Party is required to account to the relevant tax authority for the VAT, that Party must pay to such Finance Party (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of the VAT (and such Finance Party must promptly provide an appropriate VAT invoice to that Party).
- (b) If VAT is or becomes chargeable on any supply made by any Finance Party (the “**Supplier**”) to any other Finance Party (the “**Recipient**”) under a Finance Document, and any Party other than the Recipient (the “**Relevant Party**”) is required by the terms of any Finance Document to pay an amount equal to the consideration for that supply to the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):
 - (i) (where the Supplier is the person required to account to the relevant tax authority for the VAT) the Relevant Party must also pay to the Supplier (at the same time as paying that amount) an additional amount equal to the amount of the VAT. The Recipient must (where this paragraph (i) applies) promptly pay to the Relevant Party an amount equal to any credit or repayment the Recipient receives from the relevant tax authority which the Recipient reasonably determines relates to the VAT chargeable on that supply; and
 - (ii) (where the Recipient is the person required to account to the relevant tax authority for the VAT) the Relevant Party must promptly, following demand from the Recipient, pay to the Recipient an amount equal to the VAT chargeable on that supply but only to the extent that the Recipient reasonably determines that it is not entitled to credit or repayment from the relevant tax authority in respect of that VAT.
- (c) Where a Finance Document requires any Party to reimburse a Finance Party for any costs or expenses, that Party must also at the same time pay and indemnify the Finance Party against all value added tax or any other Tax of a similar nature incurred by the Finance Party in respect of these costs or expenses but only to the extent that the Finance Party (acting reasonably) determines that neither it nor any other member of any group of which it is a member for value added tax purposes is entitled to credit or repayment from the relevant tax authority in respect of the Tax.

10.8 FATCA Information

- (a) Subject to paragraph (c) below, each Party shall, within ten Business Days of a reasonable request by another Party:
 - (i) confirm to that other Party whether it is:
 - (A) a FATCA Exempt Party; or
 - (B) not a FATCA Exempt Party; and
 - (ii) supply to that other Party such forms, documentation and other information relating to its status under FATCA as that other Party reasonably requests for the purposes of that other Party's compliance with FATCA.
- (b) If a Party confirms to another Party pursuant to paragraph (a)(i) above that it is a FATCA Exempt Party and it subsequently becomes aware that it is not or has ceased to be a FATCA Exempt Party, that Party shall notify that other Party reasonably promptly.
- (c) Paragraph (a) above shall not oblige any Finance Party to do anything which would or might in its reasonable opinion constitute a breach of:
 - (i) any law or regulation;
 - (ii) any fiduciary duty; or
 - (iii) any duty of confidentiality.
- (d) If a Party fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with paragraph (a)(i) or (a)(ii) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.

10.9 FATCA Deduction

- (a) Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.
- (b) Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction), notify the Party to whom it is making the payment and, in addition, shall notify the Company and the Agent and the Agent shall notify the other Finance Parties.

10.10 Other Information

- (a) Subject to paragraph (b) below, each Party must, within ten Business Days of a reasonable request by another Party, supply to that other Party such forms, documentation and other information relating to its status as that other Party requests to enable that other Party to comply with any regulations made under section 222 of the Finance Act 2013 or any other applicable law or regulation implementing similar international arrangements for the exchange of Tax or financial information between jurisdictions.

(b) No Party is obliged to do anything under paragraph (a) above which would or might in its reasonable opinion constitute a breach of any applicable:

- (i) law or regulation;
- (ii) fiduciary duty; or
- (iii) duty of confidentiality.

11. INCREASED COSTS

11.1 Increased Costs

(a) Subject to Clause 11.3 (Exceptions) the Borrower shall, within three Business Days of a demand by the Facility Agent, pay for the account of a Finance Party the amount of any Increased Costs incurred by that Finance Party or any of its Affiliates as a result of (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation or (ii) compliance with any law or regulation made after the date of this Agreement.

(b) In this Agreement:

Increased Costs means:

- (i) a reduction in the rate of return from the Facility or on a Finance Party's (or its Affiliate's) overall capital;
- (ii) an additional or increased cost; or
- (iii) a reduction of any amount due and payable under any Finance Document, which is incurred or suffered by a Finance Party or any of its Affiliates to the extent that it is attributable to that Finance Party having entered into its Commitment.

Basel III means:

- (i) the agreements on capital requirements, a leverage ratio and liquidity standards contained in "Basel III: A global regulatory framework for more resilient banks and banking systems", "Basel III: International framework for liquidity risk measurement, standards and monitoring" and "Guidance for national authorities operating the countercyclical capital buffer" published by the Basel Committee on Banking Supervision in December 2010, each as amended, supplemented or restated;
- (ii) the rules for global systemically important banks contained in "Global systemically important banks: assessment methodology and the additional loss absorbency requirement – Rules text" published by the Basel Committee on Banking Supervision in November 2011, as amended, supplemented or restated; and
- (iii) any further guidance or standards published by the Basel Committee on Banking Supervision relating to "Basel III".

11.2 Increased cost claims

- (a) A Finance Party intending to make a claim pursuant to Clause 11.1 (Increased Costs) shall notify the Facility Agent of the event giving rise to the claim, following which the Facility Agent shall promptly notify the Borrower.
- (b) Each Finance Party shall, as soon as practicable after a demand by the Facility Agent, provide a certificate confirming the amount of its Increased Costs.

11.3 Exceptions

- (a) Clause 11.1 (Increased Costs) does not apply to the extent any Increased Cost is:
 - (i) attributable to a Tax Deduction required by law to be made by an Obligor;
 - (ii) compensated for by Clause 10.2 (Tax Indemnity) (or would have been compensated for under Clause 10.2 (Tax Indemnity) but was not so compensated solely because any of the exclusions in paragraph (b) of Clause 10.2 (Tax Indemnity) applied);
 - (iii) attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation; or
 - (iv) attributable to the implementation or application of or compliance with the “International Convergence of Capital Measurement and Capital Standards, a Revised Framework” published by the Basel Committee on Banking Supervision in June 2004 in the form existing on the date of this Agreement (but excluding any amendment arising out of Basel III) (**Basel II**) or any other law or regulation which implements Basel II (whether such implementation, application or compliance is by a government, regulator, Finance Party or any of its Affiliates).
- (b) In this Clause 11.3 reference to a “Tax Deduction” has the same meaning given to the term in Clause 1.1 (Definitions).

12. PAYMENTS

12.1 Place

Unless a Finance Document specifies that payments under it are to be made in another manner, all payments by a Party (other than the Facility Agent) under the Finance Documents must be made to the Facility Agent to its account with such office or bank in London as it may notify to that Party for this purpose by not less than five Business Days’ prior notice.

12.2 Funds

Payments under the Finance Documents to the Facility Agent must be made for value on the due date at such times and in such funds as the Facility Agent may specify to the Party concerned as being customary at the time for the settlement of transactions in the relevant currency in the place for payment.

12.3 Distribution

- (a) Each payment received by the Facility Agent under the Finance Documents for another Party must, except as provided below, be made available by the Facility Agent to that Party by payment (as soon as practicable after receipt) to its account with such office or bank as it may notify to the Facility Agent for this purpose by not less than five Business Days' prior notice.
- (b) The Facility Agent may apply any amount received by it from any of the Obligors in or towards payment (as soon as practicable) of any amount due from the Obligors under the Finance Documents or in or towards the purchase of any amount of any currency to be so applied.
- (c) Where a sum is paid to the Facility Agent under this Agreement for another Party, the Facility Agent is not obliged to pay that sum to that Party until it has established that it has actually received it. However, the Facility Agent may assume that the sum has been paid to it, and, in reliance on that assumption, make available to that Party a corresponding amount. If it transpires that the sum has not been received by the Facility Agent, that Party must immediately on demand by the Facility Agent refund any corresponding amount made available to it together with interest on that amount from the date of payment to the date of receipt by the Facility Agent at a rate calculated by the Facility Agent to reflect its cost of funds.

12.4 Currency

All amounts payable under the Finance Documents are payable in Dollars provided always that amounts payable in respect of costs and expenses are payable in the currency in which those costs and expenses are incurred.

12.5 No set-off or counterclaim

All payments made by any Obligor under the Finance Documents must be made without set-off or counterclaim.

12.6 Business Days

- (a) If a payment under the Finance Documents is due on a day which is not a Business Day, the due date for that payment will instead be the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- (b) During any extension of the due date for payment of any principal under this Agreement interest is payable on that principal at the rate payable on the original due date.

12.7 Partial payments

- (a) Subject to the terms of the Intercreditor Agreement, if any Administrative Party receives a payment insufficient to discharge all the amounts then due and payable by the Obligors under the Finance Documents, then, except to the extent otherwise provided in any Finance Document, the Administrative Party must apply that payment towards the obligations of the Obligors under the Finance Documents in the following order:
 - (i) **first**, in or towards payment or satisfaction pro rata of all costs, charges, sales taxes, expenses and liabilities incurred and payments made by the Finance Parties or any receiver and all remuneration payable to the Finance Parties or any receiver under or pursuant to the Security Documents including, without limitation, legal expenses, re instatement costs and any costs incurred in recovering possession of the Security Assets;

- (ii) **second**, in or towards payment pro rata of any unpaid fees, costs and expenses of the Finance Parties to the extent not recovered under paragraph (i) above under this Agreement and the Finance Documents;
 - (iii) **third**, in or towards payment pro rata of any accrued but unpaid interest payable to the Finance Parties under this Agreement and the Finance Documents;
 - (iv) **fourth**, in or towards payment pro rata of any Break Costs of the Lenders due but unpaid and payable to the Finance Parties under this Agreement and the Finance Documents;
 - (v) **fifth**, in or towards payment pro rata of any principal in respect of this Agreement and the Finance Documents due but unpaid;
 - (vi) **sixth**, in or towards payment pro rata to the Finance Parties of any other amounts which are due but unpaid by the Obligors to any of the Finance Parties under the Finance Documents in such order as the Finance Parties shall in their absolute discretion determine; and
 - (vii) **seventh**, after all amounts payable or which may become payable under the Finance Documents have been paid in full and the Finance Documents have been discharged in payment of the surplus, if any, to the Borrower or other persons entitled thereto.
- (b) Subject to the terms of the Intercreditor Agreement, the Facility Agent must, if so directed by all the Lenders, vary the order set out at paragraphs (a)(ii) to (a)(vi) above.
- (c) This Clause 12.7 will override any appropriation made by an Obligor.

12.8 Timing of payments

If a Finance Document does not provide for when a particular payment is due, that payment will be due within three Business Days of demand by the relevant Finance Party.

12.9 Disruption to Payment Systems etc.

If either the Facility Agent determines (in its discretion) that a Disruption Event has occurred or the Facility Agent is notified by the Borrower that a Disruption Event has occurred:

- (a) the Facility Agent may, and shall if requested to do so by the Borrower, consult with the Borrower with a view to agreeing with the Borrower such changes to the operation or administration of the Facility as the Facility Agent may deem necessary in the circumstances;
- (b) the Facility Agent shall not be obliged to consult with the Borrower in relation to any changes mentioned in paragraph (a) above if, in its opinion, it is not practicable to do so in the circumstances and, in any event, shall have no obligation to agree to such changes;
- (c) the Facility Agent may consult with the Finance Parties in relation to any changes mentioned in paragraph (a) above but shall not be obliged to do so if, in its opinion, it is not practicable to do so in the circumstances;
- (d) any such changes agreed upon by the Facility Agent and the Borrower shall (whether or not it is finally determined that a Disruption Event has occurred) be binding upon the Parties as an amendment to (or, as the case may be, waiver of) the terms of the Finance Documents notwithstanding the provisions of Clause 25 (Amendments and Waivers);

- (e) subject to the terms of the Intercreditor Agreement, the Facility Agent shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever (including, without limitation for negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Facility Agent) arising as a result of its taking, or failing to take, any actions pursuant to or in connection with this Clause 12.9; and
- (f) the Facility Agent shall notify the Finance Parties of all changes agreed pursuant to paragraph (d) above.

12.10 Impaired Agent

- (a) If, at any time, the Facility Agent becomes an Impaired Agent, an Obligor or a Lender which is required to make a payment under the Finance Documents to the Facility Agent in accordance with Clause 12.1 (Place) may instead either:
 - (i) pay that amount direct to the required recipient(s); or
 - (ii) if in its absolute discretion it considers that it is not reasonably practicable to pay that amount direct to the required recipient(s), pay that amount or the relevant part of that amount to an interest-bearing account held with an Acceptable Bank within the meaning of paragraph (a) of the definition of “Acceptable Bank” and in relation to which no Insolvency Event has occurred and is continuing, in the name of the Obligor or the Lender making the payment (the Paying Party) and designated as a trust account for the benefit of the Party or Parties beneficially entitled to that payment under the Finance Documents (the Recipient Party or Recipient Parties).

In each case such payments must be made on the due date for payment under the Finance Documents.

- (b) All interest accrued on the amount standing to the credit of the trust account shall be for the benefit of the Recipient Party or the Recipient Parties pro rata to their respective entitlements.
- (c) A Party which has made a payment in accordance with this Clause 12.10 shall be discharged of the relevant payment obligation under the Finance Documents and shall not take any credit risk with respect to the amounts standing to the credit of the trust account.
- (d) Promptly upon the appointment of a successor Facility Agent in accordance with Clause 19.13 (Replacement of the Facility Agent), each Paying Party shall (other than to the extent that that Party has given an instruction pursuant to paragraph (e) below) give all requisite instructions to the bank with whom the trust account is held to transfer the amount (together with any accrued interest) to the successor Agent for distribution to the relevant Recipient Party or Recipient Parties in accordance with Clause 12.3 (Distribution).
- (e) A Paying Party shall, promptly upon request by a Recipient Party and to the extent:
 - (i) that it has not given an instruction pursuant to paragraph (d) above; and
 - (ii) that it has been provided with the necessary information by that Recipient Party,give all requisite instructions to the bank with whom the trust account is held to transfer the relevant amount (together with any accrued interest) to that Recipient Party.

12.11 Mitigation by the Lenders

- (a) Each Finance Party shall, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise and which would result in any Facility ceasing to be available or any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 6.1 (*Illegality*), Clause 10 (*Tax gross-up and indemnities*) or Clause 11 (*Increased Costs*) including (but not limited to) transferring its rights and obligations under the Finance Documents to another Affiliate or facility office.
- (b) Paragraph (a) above does not in any way limit the obligations of any Obligor under the Finance Documents.

13. GUARANTEE AND INDEMNITY

13.1 Guarantee and indemnity

Each Guarantor irrevocably and unconditionally jointly and severally:

- (a) guarantees to each Finance Party punctual performance by each other Obligor of all that Obligor's obligations under the Finance Documents;
- (b) undertakes with each Finance Party that whenever another Obligor does not pay any amount when due under or in connection with any Finance Document, that Guarantor shall immediately on demand pay that amount as if it was the principal obligor; and
- (c) agrees with each Finance Party that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify that Finance Party immediately on demand against any cost, loss or liability it incurs as a result of an Obligor not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under any Finance Document on the date when it would have been due. The amount payable by a Guarantor under this indemnity will not exceed the amount it would have had to pay under this Clause 13 if the amount claimed had been recoverable on the basis of a guarantee.

13.2 Continuing Guarantee

This guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by any Obligor under the Finance Documents, regardless of any intermediate payment or discharge in whole or in part.

13.3 Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is made by a Finance Party in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of each Guarantor under this Clause 13 will continue or be reinstated as if the discharge, release or arrangement had not occurred.

13.4 Waiver of defences

The obligations of each Guarantor under this Clause 13 will not be affected by an act, omission, matter or thing which, but for this Clause 13, would reduce, release or prejudice any of its obligations under this Clause 13 (without limitation and whether or not known to it or any Finance Party) including:

- (a) any time, waiver or consent granted to, or composition with, any Obligor or other person;
- (b) the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person;
- (e) any amendment, novation, supplement, extension restatement (however fundamental and whether or not more onerous) or replacement of a Finance Document or any other document or security including, without limitation, any change in the purpose of, any extension of or increase in any facility or the addition of any new facility under any Finance Document or other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security;
- (g) any insolvency or similar proceedings; or
- (h) any release or non-perfection of any Security Interest granted by any Obligor.

13.5 Guarantor Intent

Without prejudice to the generality of Clause 13.4 (Waiver of defences), each Guarantor expressly confirms that it intends that this guarantee shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following: business acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

13.6 Immediate recourse

Each Guarantor waives any right it may have of first requiring any Finance Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from that Guarantor under this Clause 13. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

13.7 Appropriations

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full, each Finance Party (or any trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by that Finance Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Guarantor shall be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any moneys received from any Guarantor or on account of any Guarantor's liability under this Clause 13.

13.8 Deferral of Guarantors' rights

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full and unless the Facility Agent otherwise directs, no Guarantor will exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents or by reason of any amount being payable, or liability arising, under this Clause 13:

- (a) to be indemnified by an Obligor;
- (b) to claim any contribution from any other guarantor of any Obligor's obligations under the Finance Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Finance Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Finance Party;
- (d) to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which any Guarantor has given a guarantee, undertaking or indemnity under Clause 13.1 (Guarantee and indemnity);
- (e) to exercise any right of set-off against any Obligor;
- (f) to claim or prove as a creditor of any Obligor in competition with any Finance Party.

Until such time as all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full, to the extent a Guarantor receives any benefit, payment or distribution in relation to such rights it will hold that benefit, payment or distribution on trust for the Finance Parties and will promptly pay an amount equal to that benefit, payment or distribution, to the Facility Agent, for application in accordance with Clause 12 (Payments).

13.9 Release of Guarantors' right of contribution

If any Guarantor (a **Retiring Guarantor**) ceases to be a Guarantor in accordance with the terms of the Finance Documents for the purpose of any sale or other disposal of that Retiring Guarantor then on the date such Retiring Guarantor ceases to be a Guarantor:

- (a) that Retiring Guarantor is released by each other Guarantor from any liability (whether past, present or future and whether actual or contingent) to make a contribution to any other Guarantor arising by reason of the performance by any other Guarantor of its obligations under the Finance Documents; and
- (b) each other Guarantor waives any rights it may have by reason of the performance of its obligations under the Finance Documents to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Finance Parties under any Finance Document or of any other security taken pursuant to, or in connection with, any Finance Document where such rights or security are granted by or in relation to the assets of the Retiring Guarantor.

13.10 Additional security

This guarantee is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by any Finance Party.

13.11 Guarantee Limitations

This guarantee does not apply to any liability to the extent that it would result in this guarantee constituting unlawful financial assistance within the meaning of sections 678 or 679 of the Companies Act 2006 or any equivalent and applicable provisions under the laws of the Original Jurisdiction of the relevant Guarantor and, with respect to any Additional Guarantor, is subject to any limitations set out in the Accession Deed applicable to such Additional Guarantor.

14. REPRESENTATIONS

14.1 Representations

The representations set out in this Clause 14 are made, unless otherwise stated, by each Obligor in respect of itself or (if the relevant provision so states) one or more of them each in respect of itself to the Finance Parties.

14.2 Status

- (a) It is a limited liability company, duly incorporated and validly existing under the laws of its Original Jurisdiction.
- (b) It and each of its Subsidiaries, if any, has the power to own its assets and carry on its business as it is being conducted.
- (c) The Borrower is the legal and beneficial owner of all the share capital of each of the other Obligors.

14.3 Powers and authority

It has the power to enter into and perform, and has taken all necessary action to authorise the entry into and performance of, the Transaction Documents to which it is or will be a party and the transactions contemplated by those Transaction Documents.

14.4 Legal validity

Subject to any general principles of law limiting its obligations and referred to in any Legal Opinion required under this Agreement, each Transaction Document to which it is a party is its legally binding, valid and enforceable obligation.

14.5 Non-conflict

The entry into and performance by it of, and the transactions contemplated by, the Transaction Documents to which it is a party do not conflict in any material respect with:

- (a) any law or regulation applicable to it;
- (b) its or any of its Subsidiaries' constitutional documents; or
- (c) any document which is binding upon it or any of its Subsidiaries or any of its or its Subsidiaries' assets.

14.6 No Default

- (a) No Default is outstanding or will result from the entry into, or the performance of any transaction contemplated by, any Transaction Document.
- (b) No other event is outstanding which constitutes a default under any document which is binding on it or any of its Subsidiaries or any of its or its Subsidiaries' assets to an extent or in a manner which is reasonably likely to have a Material Adverse Effect.

14.7 Authorisations

Except for registration of (i) the Mortgages and the relevant Vessels at the registry of the Approved Flag State, (ii) any Security Document creating Security Interests over Security Assets of the Obligors with the Registrar of Companies in the jurisdiction of incorporation of the relevant Obligor as required by law or (iii) any relevant Security Document under the Companies Act 2006, and (iv) in the case of the Pledges of Shares in respect of the share capital of each Cypriot Guarantor, the delivery of the original share certificates in respect of the shares being pledged to the Security Agent and the giving of notice to each Cypriot Guarantor accompanied by a certified copy of the relevant Pledge of Shares and the issue of a certificate by the secretary of each Cypriot Guarantor confirming that a memorandum was made in its register of members against all the share certificates pledged thereby, all authorisations required by it in connection with the entry into, performance, validity and enforceability of, and the transactions contemplated by, the Transaction Documents have been obtained or effected (as appropriate) and are in full force and effect.

14.8 Financial statements

- (a) Its Original Financial Statements were prepared in accordance with the Accounting Principles consistently applied.
- (b) The unaudited Original Financial Statements of the Borrower fairly represent its financial condition and results of operations for the half-year period ending on 30 June 2017.
- (c) Its audited Original Financial Statements give a true and fair view of (or fairly represent) its financial condition and results of operations during the relevant financial year unless expressly disclosed to the Facility Agent in writing to the contrary prior to the date of this Agreement.

- (d) There has been no material adverse change in the assets, business or consolidated financial condition of the Restricted Group since the date of the Original Financial Statements.
- (e) There has been no material adverse change in the assets, business or consolidated financial condition of the Restricted Group since the date of delivery of the most recent financial statements pursuant to Clause 15.1 (Financial statements).
- (f) Its most recent financial statements delivered pursuant to Clause 15.1 (Financial statements):
 - (i) have been prepared in accordance with the Accounting Principles; and
 - (ii) give a true and fair view of or fairly represent its consolidated financial condition as at the end of, and consolidated results of operations for, the period to which they relate.

14.9 No material adverse change

There has been no material adverse change in the ability of the Obligors, taken as a whole, to make all the required payments under this Agreement or the validity or enforceability of this Agreement since the date of this Agreement or following the receipt by the Facility Agent of a Compliance Certificate, since the date of the then latest Compliance Certificate.

14.10 Litigation

No litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency (including, but not limited to, investigative proceedings) which, if on the balance of probabilities is likely to be adversely determined, might reasonably be expected to have a Material Adverse Effect have (to the best of its knowledge and belief) been started against it or any of its Subsidiaries.

14.11 No breach of laws

It has not (and none of its Subsidiaries has) breached any law or regulation which breach has or is reasonably likely to have a Material Adverse Effect.

14.12 Pari passu ranking

Its payment obligations under the Finance Documents rank at least pari passu with all its other present and future unsecured and unsubordinated payment obligations, except for obligations mandatorily preferred by law applying to companies generally.

14.13 Ranking of security

The Transaction Security has or will have first ranking priority and it is not subject to any prior ranking or pari passu ranking Security Interest (other than Permitted Security Interests).

14.14 Good title to assets

It and each of its Subsidiaries has a good, valid and marketable title to, or valid leases or licences of, and all appropriate Authorisations to use, the assets necessary to carry on its business as presently conducted.

14.15 Group Structure Chart

The Group Structure Chart delivered to the Facility Agent pursuant to Schedule 2Part 2 (Conditions Precedent) is true, complete and accurate in all material respects and shows the following information:

- (a) each member of the Group, including current name and company registration number, its Original Jurisdiction (in the case of an Obligor), its jurisdiction of incorporation (in the case of a member of the Group which is not an Obligor) and/or its jurisdiction of establishment, a list of shareholders and indicating whether a company is not a Guarantor or is not a company with limited liability; and
- (b) all minority interests in any member of the Group and any person in which any member of the Group holds shares in its issued share capital or equivalent ownership interest of such person.

14.16 No filings or stamp taxes

Under the laws of its Relevant Jurisdiction it is not necessary that the Finance Documents be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration, notarial or similar Taxes or fees be paid on or in relation to the Finance Documents or the transactions contemplated by the Finance Documents except any filing, recording or enrolling or any tax or fee payable in relation to the Transaction Documents which is referred to in any Legal Opinion and which will be made or paid promptly after the date of the relevant Finance Document.

14.17 Taxation

- (a) It is not (and, so far as it is aware, none of its Subsidiaries is) overdue in the filing of any Tax returns and it is not (and, so far as it is aware, none of its Subsidiaries is) overdue in the payment of any amount in respect of Tax, in each case, to an extent which could reasonably be expected to have a Material Adverse Effect.
- (b) No claims or investigations are being, or are reasonably likely to be, made or conducted against it (or any of its Subsidiaries) with respect to Taxes.
- (c) Save where such Obligor has, upon giving prior notice to the Facility Agent, caused its residency for tax to be moved to any of the U.K., Cyprus, the Bahamas or Hong Kong:
 - (i) each Original Obligor (other than the Borrower and GSL Alcazar Inc.) and each Additional Guarantor, is resident for Tax purposes only in its Original Jurisdiction; and
 - (ii) GSL Alcazar Inc., is resident for Tax purposes only in Cyprus.

14.18 Environment

Except as may already have been disclosed by the Borrower in writing to the Facility Agent:

- (a) each of the members of the Restricted Group and their respective Environmental Affiliates has, without limitation, complied with the provisions of all applicable Environmental Laws in relation to each Vessel or other vessel owned by it;

- (b) each of the members of the Restricted Group and their respective Environmental Affiliates has obtained all requisite Environmental Approvals in relation to each Vessel or other vessel owned by it and are in compliance with such Environmental Approvals;
- (c) no member of the Restricted Group nor any of their respective Environmental Affiliates has received notice of any Environmental Claim in relation to a Vessel or other vessel owned by it which alleges that any of the Obligors or any of their respective Environmental Affiliates is not in compliance with applicable Environmental Laws in relation to such Vessel or vessel or Environmental Approvals in relation to such Vessel or vessel;
- (d) there is no Environmental Claim in relation to any Vessel or other vessel owned by any member of the Restricted Group pending or threatened which is such that a first class owner or operator of vessels such as the Vessels, making all due enquiries and complying in all respects with its obligations under the ISM Code, ought to have known about; and
- (e) there has been no Release of Hazardous Materials by or in respect of any Vessel or other vessel owned by any member of the Restricted Group about which a first class owner or operator of vessels such as the Vessels making all due enquiries and complying in all respects with its obligations under the ISM Code ought to have known about.

14.19 Security Assets

Each Obligor is or will on the creation of the relevant Security Interest be solely and absolutely entitled to the Security Assets over which it has or will create any Security Interest pursuant to the Security Documents to which it is, or will be, a party and there is no agreement or arrangement under which it is obliged to share any proceeds of or derived from such Security Assets with any third party.

14.20 ISM Code compliance

In respect of any Additional Vessel, on the Delivery Date in respect of the relevant Vessel, the relevant Additional Guarantor is in full compliance with the ISM Code in respect of that Vessel.

14.21 ISPS Code Compliance

In respect of any Additional Vessel, on the Delivery Date in respect of the relevant Vessel, the relevant Additional Guarantor is in full compliance with the ISPS Code in respect of that Vessel.

14.22 No amendments to Related Contracts

Other than as notified to the Facility Agent in writing, there have been no amendments to any of the Related Contracts.

14.23 Anti-corruption law

Each member of the Restricted Group has conducted its business in compliance with applicable anti-corruption laws and has instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

14.24 Insolvency

- (a) No member of the Restricted Group is unable, nor admits or has admitted its inability, to pay its debts or has suspended making payments on any of its debts.

- (b) No member of the Restricted Group has commenced, or intends to commence, negotiations with one or more of its creditors with a view to rescheduling any of its Financial Indebtedness.
- (c) The value of the assets of each member of the Restricted Group is not less than its liabilities (taking into account contingent and prospective liabilities).
- (d) No moratorium has been, or may, in the reasonably foreseeable future be, declared in respect of any indebtedness of any member of the Restricted Group.
- (e) No reorganisation or liquidation of any member of the Restricted Group has occurred (other than a voluntary reorganisation of a member that is not insolvent or subject to any creditors' process at the time of such reorganisation and which has been approved by the Facility Agent (acting reasonably)).

14.25 Sanctions

No Obligor nor any of its Subsidiaries, nor to the best knowledge of the Obligors or any of their Subsidiaries, any director, officer, employee, agent, affiliate, or person associated with or acting on behalf of the Obligors or any of their Subsidiaries is directly owned or controlled by, or is acting on behalf of an individual or entity that: (i) is or has been a Restricted Party; (ii) is or has been engaged in any transaction, activity or conduct that could reasonably be expected to result in it becoming a Restricted Party; and/or (iii) has received notice of, or has become otherwise aware of, any claim, action, suit, proceedings or investigation involving it with respect to Sanctions. None of the proceeds of the Loan will be directly applied, lent, contributed or otherwise made available to fund or finance any activities or business of or with a Restricted Party or in a Sanctioned Country.

14.26 Immunity

- (a) The execution by it of each Transaction Document to which it is a party constitutes, and the exercise by it of its rights and performance of its obligations under each such Transaction Document will constitute, private and commercial acts performed for private and commercial purposes.
- (b) It will not be entitled to claim immunity from suit, execution, attachment or other legal process in any proceedings taken in its jurisdiction of incorporation in relation to any Transaction Document.

14.27 No adverse consequences

- (a) It is not necessary under the laws of its jurisdiction of incorporation:
 - (i) in order to enable any Finance Party to enforce its rights under any Finance Document; or
 - (ii) by reason of the execution of any Finance Document or the performance by it of its obligations under any Finance Document,that any Finance Party should be licensed, qualified or otherwise entitled to carry on business in its Original Jurisdiction; and

- (b) No Finance Party will be deemed to be resident, domiciled or carrying on business in its Relevant Jurisdiction by reason only of the execution, performance and/or enforcement of any Finance Document.

14.28 Governing law and enforcement

- (a) The choice of governing law of the Finance Documents will be recognised and enforced in its Relevant Jurisdictions.
- (b) Any judgment obtained in relation to a Finance Document in the jurisdiction of the governing law of that Finance Document will be recognised and enforced in its Relevant Jurisdictions.

14.29 Accounting Reference Date

The financial year end of each member of the Restricted Group is 31 December in each year or such other date as has been approved by the Facility Agent in writing.

14.30 Centre of main interests and establishments

For the purposes of The Council of the European Union Regulation No. 1346/2000 on Insolvency Proceedings (the Regulation), its centre of main interest (as that term is used in Article 3(1) of the Regulation) is situated in its Original Jurisdiction and it has no “establishment” (as that term is used in Article 2(h) of the Regulations) in any other jurisdiction.

14.31 Discharge of existing security

All security created in favour of the relevant financiers pursuant to the Existing Facilities and the Existing 2019 Notes has been fully finally and irrevocably discharged.

14.32 Times for making representations

- (a) The representations set out in this Clause 14 (Representations) are made by the Borrower and each Original Obligor on the date of this Agreement, save that the representation in Clause 14.31 (Discharge of existing security) is made by the Borrower and each Original Obligor on the Utilisation Date only.
- (b) Unless a representation is expressed to be given at a specific date and subject, in relation to the representation in Clause 14.31 (Discharge of existing security) to paragraph (a) above (in which event it shall be deemed to be given on that date), the representations in Clauses:
 - (i) 14.2 (Status), 14.3 (Powers and authority), 14.4 (Legal validity), 14.5 (Non-conflict), 14.6 (No Default) 14.7 (Authorisations), 14.8 (Financial statements) (other than paragraph (d) thereof), 14.12 (Pari passu ranking), 14.13 (Ranking of security), 14.14 (Good title to assets), 14.24 (Insolvency), 14.25 (Sanctions), 14.26 (Immunity), 14.27 (No adverse consequences), 14.28 (Governing law and enforcement) and 14.29 (Accounting Reference Date), are deemed to be repeated by each Obligor on the date of the Request, on the Utilisation Date and the first day of each Interest Period;
 - (ii) 14.9 (no material adverse change) and 14.10 (Litigation) are deemed to be repeated by each Obligor on the date of the Request and the Utilisation Date;

- (iii) 14.18 (Environment), 14.19 (Security Assets) and 14.22 (No amendments to Related Contracts) are deemed to be repeated on the Delivery Date in respect of an Additional Vessel and in relation to the Related Contracts relating to that Vessel (in the case of 14.18 (Environment)); and
 - (iv) all the representations and warranties in this Clause 14 except Clause 14.15 (Group Structure Chart) and Clause 14.31 (Discharge of existing security) are deemed to be made by each Additional Guarantor on the day on which it becomes (or it is proposed that it becomes) an Additional Guarantor.
- (c) When a representation is repeated, it is applied to the circumstances existing at the time of repetition.

15. INFORMATION COVENANTS

15.1 Financial statements

- (a) The Borrower must supply to the Facility Agent in sufficient copies (which may take the form of an electronic copy) for all the Lenders:
- (i) as soon as they are available, but in any event within 120 days after the end of each Financial Year, its audited consolidated financial statements for that Financial Year commencing with the Financial Year ending after the date hereof; and
 - (ii) as soon as they are available, but in any event within 60 days after the end of each half-year of each Financial Year (but not the half-year ending at the end of each Financial Year), its unaudited consolidated financial statements for that half-year commencing with the half-year ending after the date hereof.
- (b) The Facility Agent shall send to each Lender all of the financial statements received by it under this Clause 15.1.

15.2 Form of financial statements

- (a) Each Obligor must ensure that each set of its financial statements supplied under this Agreement fairly represents the financial condition (consolidated or otherwise) of the relevant person as at the date to which those financial statements were drawn up and that each set of audited financial statements required to be delivered by an Obligor pursuant to Clause 15.1 (Financial statements) have been audited by the Auditors of that Obligor.
- (b) The Borrower must notify the Facility Agent of any change to the basis on which its audited financial statements are prepared.
- (c) If requested by the Facility Agent, the Borrower must supply or procure that the following are supplied to the Facility Agent:
- (i) a full description of any change notified under paragraph (b) above; and
 - (ii) sufficient information to enable the Facility Agent to make a proper comparison between the financial position shown by the set of financial statements prepared on the changed basis and its most recent audited consolidated financial statements delivered to the Facility Agent under this Agreement.

- (d) If requested by the Facility Agent, the Borrower must enter into discussions for a period of not more than thirty days with a view to agreeing to any amendments required to be made to this Agreement to place the Facility Agent in the same position as it would have been in if the change had not happened. Any agreement between the Borrower and the Facility Agent will be, with the prior consent of the Majority Lenders, binding on all parties.
- (e) If no agreement is reached under paragraph (d) above on the required amendments to this Agreement, the Borrower must ensure that its Auditors certify those amendments; the certificate of the Auditors will be, in the absence of manifest error, binding on all the Parties.

15.3 Compliance Certificate

- (a) The Borrower must supply to the Facility Agent a Compliance Certificate with each set of its consolidated financial statements required to be delivered by it pursuant to Clause 15.1 (Financial statements) setting out, amongst other things, the Cash Balance on the most recent Test Date.
- (b) Without prejudice to paragraph (a) above, and subject to paragraph (b) of Clause 6.5 (Mandatory prepayment – Debt Service Coverage Ratio) and except following the date on which the Loan is US\$15,000,000 (fifteen million Dollars) or less, the Borrower must supply to the Facility Agent, within 120 days (in the case of each DSCR Test Date which falls on each 31 December) or 60 days (in the case of each DSCR Test Date which falls on 30 June), a Compliance Certificate setting out, amongst other things, the Debt Service Coverage Ratio on that DSCR Test Date (including computations in reasonable detail based on its unaudited consolidated financial statements for the Measurement Period ending on that DSCR Test Date).
- (c) Each Compliance Certificate supplied by the Borrower must be signed by its chief financial officer or chief executive officer.

15.4 Information - miscellaneous

The Borrower must supply to the Facility Agent in sufficient copies (which may take the form of an electronic copy) for all the Lenders:

- (a) copies of all documents despatched by it to its creditors generally or any class of them or, as the case may be, by any Obligor to its creditors or any class of them at the same time as they are despatched;
- (b) copies of all notices and minutes relating to any extraordinary general meeting of its or any Obligor's shareholders at the same time as they are despatched;
- (c) promptly upon becoming aware of them, details of any litigation, arbitration or administrative proceedings which are current, or to the knowledge of an Obligor threatened or pending against it or any Obligor and which might, if adversely determined, have a Material Adverse Effect; and
- (d) promptly upon becoming aware of them, the details of any judgment or order of a court, arbitral body, or agency which is made against any Obligor which might have a Material Adverse Effect.

15.5 Notification of Default

Unless the Facility Agent has already been so notified, the Borrower must notify the Facility Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.

15.6 Know your customer requirements

- (a) If:
- (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Agreement;
 - (ii) any change in the status of an Obligor or the composition of the shareholders of an Obligor after the date of this Agreement; or
 - (iii) a proposed assignment or transfer by a Lender of any of its rights and/or obligations under this Agreement to a party that is not a Lender prior to such assignment or transfer,

obliges the Facility Agent, the Security Agent or any Lender (or, in the case of paragraph (iii) above, any prospective new Lender) to comply with “know your customer” or similar identification procedures in circumstances where the necessary information is not already available to it, each Obligor shall promptly upon the request of the Facility Agent, the Security Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Facility Agent (for itself or on behalf of any Lender), the Security Agent or any Lender (for itself or, in the case of the event described in paragraph (iii) above, on behalf of any prospective new Lender) in order for the Facility Agent, the Security Agent, such Lender or, in the case of the event described in paragraph (iii) above, any prospective new Lender to carry out and be satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

- (b) Each Lender shall promptly upon the request of the Facility Agent or the Security Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Facility Agent or the Security Agent (for itself) in order for the Facility Agent or the Security Agent to carry out and be satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.
- (c) The Borrower shall, by not less than ten Business Days’ prior written notice to the Facility Agent, notify the Facility Agent (which shall promptly notify the Lenders) of its intention to request that one of its Subsidiaries becomes an Additional Guarantor pursuant to Clause 26 (Changes to the Obligors).
- (d) Following the giving of any notice pursuant to paragraph (c) above, if the accession of such Additional Guarantor obliges the Facility Agent or the Security Agent or any Lender to comply with “know your customer” or similar identification procedures in circumstances where the necessary information is not already available to it, the Borrower shall promptly upon the request of the Facility Agent, the Security Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Facility Agent (for itself or on behalf of any Lender), the Security Agent or any Lender (for itself or on behalf of any prospective new Lender) in order for the Facility Agent, the Security Agent or such Lender or any prospective new Lender to carry out and be satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations pursuant to the accession of such Subsidiary to this Agreement as an Additional Guarantor.

16. GENERAL COVENANTS

16.1 General

Each Obligor agrees to be bound by the covenants set out in this Clause 16 relating to it. To the extent that a Vessel ceases to be a Vessel in accordance with the terms of this Agreement, the relevant Obligor shall no longer be bound by the covenants set out in this Clause 16 in so far as these covenants relate to that Vessel.

16.2 Notes Restrictive Covenants

Each Obligor shall comply with the Notes Restrictive Covenants.

16.3 Authorisations

Each Obligor must promptly obtain, maintain and comply, in all material respects, with the terms of any authorisation required under any Applicable Law to enable it to perform its obligations under, or for the validity or enforceability of, any Finance Document.

16.4 Compliance with laws

Each Obligor must comply and procure that each member of the Restricted Group complies in all respects with all Applicable Laws to which it is subject where failure to do so is reasonably likely to have a Material Adverse Effect.

16.5 Pari passu ranking

Each Obligor must ensure that its payment obligations under the Finance Documents rank at least pari passu with all its other present and future unsecured and unsubordinated payment obligations, except for obligations mandatorily preferred by law applying to companies generally.

16.6 Anti-corruption law

- (a) No Obligor shall (and the Borrower shall ensure that no other member of the Group will) directly or indirectly use the proceeds of the Loan for any purpose which would breach the Bribery Act 2010, the United States Foreign Corrupt Practices Act of 1977 or other similar legislation in other jurisdictions.
- (b) Each Obligor shall (and the Borrower shall ensure that each other member of the Group will):
 - (i) conduct its businesses in compliance with applicable anti-corruption laws; and
 - (ii) maintain policies and procedures designed to promote and achieve compliance with such laws.

16.7 Taxation

- (a) Each Obligor shall (and the Borrower shall ensure that each member of the Group will) pay and discharge all Taxes imposed upon it or its assets within the time period allowed without incurring penalties unless and only to the extent that:
- (i) such payment is being contested in good faith;
 - (ii) adequate reserves are being maintained for those Taxes and the costs required to contest them which have been disclosed in its latest financial statements delivered to the Facility Agent under Clause 15.1 (Financial statements); and
 - (iii) such payment can be lawfully withheld and failure to pay those Taxes does not have or is not reasonably likely to have a Material Adverse Effect.
- (b) No member of the Group may change its residence for Tax purposes without the consent of the Facility Agent (not to be unreasonably withheld).

16.8 Changes to ownership

Subject to each Pledge of Shares, the Borrower shall, at all times, remain the legal and beneficial owner of all of the issued shares in each other Obligor.

16.9 No other business assets or Financial Indebtedness

- (a) The Obligors shall not engage in any business other than the direct or indirect ownership, operation, management and chartering of container vessels, shipping containers and other container related assets and any business incidental thereto and (in connection with any Financial Indebtedness permitted to be incurred under this Agreement) the operation of a finance company, nor shall any Obligor incur any Financial Indebtedness secured or to be secured in any way on the Vessels, or any of them, or any other Security Asset other than the Financial Indebtedness contemplated by or otherwise permitted to be incurred under the terms of this Agreement, in each case to the extent secured by any Permitted Security Interest.
- (b) Any inter company debt owed by the Borrower to a company which is not an Obligor shall be fully subordinated to any Financial Indebtedness under the Finance Documents.

16.10 Change of business

- (a) Unless otherwise agreed with the Facility Agent (acting on the instruction of all of the Lenders), the Borrower must keep its corporate documents and records, at the address from time to time of GSLS, and the Borrower 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 United Kingdom or Bermuda unless otherwise agreed with and notified to the Facility Agent, such agreement not to be unreasonably withheld.
- (b) Unless otherwise agreed with the Facility Agent, each Obligor must maintain its place of business, and keep its corporate documents and records (i) in the case of an Original Guarantor at its registered address as at the date of this Agreement (save that, in the case of GSL Alcazar Inc., its corporate documents and records shall be maintained in Cyprus) or at another address in its jurisdiction of incorporation as at the date of this Agreement and (ii) in the case of any other Obligor, at an address in Cyprus, Hong Kong or the United Kingdom stated in the Accession Deed pursuant to which such person becomes an Obligor (or at another address in such jurisdiction).

- (c) No Obligor will establish, or do anything as a result of which it would be deemed to have, a place of business in any country other than (i) in the case of an Original Guarantor, its jurisdiction of incorporation as at the date of this Agreement and (ii) in the case of any other Obligor, Cyprus, the Marshall Islands, Hong Kong or the United Kingdom unless otherwise agreed with and notified to the Facility Agent such agreement not to be unreasonably withheld.
- (d) Any change in the place of business of:
 - (i) the Borrower from the Republic of the Marshall Islands to Bermuda; or
 - (ii) any other Obligor (other than the Borrower) from one in Cyprus, the Republic of the Marshall Islands, Hong Kong or the United Kingdom to another in Cyprus, the Republic of the Marshall Islands, Hong Kong or the United Kingdom,shall be promptly notified in writing to the Facility Agent.

16.11 Security

The relevant Obligor:

- (a) will procure, at the Applicable Time, that the relevant Mortgage is submitted for registration with the registry of the relevant Approved Flag State and that upon registration the relevant Mortgage will, and will continue to be, registered as a first priority mortgage with the registry of the relevant Approved Flag State;
- (b) without prejudice to paragraph (a) above will procure that the Mortgages and any other security conferred by it under any Security Document are registered as a first priority interest with the relevant authorities within the period prescribed by the Applicable Laws and is maintained and perfected with the relevant authorities;
- (c) will at its own cost, use best efforts to ensure that any Finance Document validly creates the obligations and Security Interests which it purports to create; and
- (d) without limiting the generality of paragraph (a) above, will at its own cost, promptly register, file, record or enrol any Finance Document with any court or authority, pay any stamp, registration or similar tax payable in respect of any Finance Document, give any notice or take any other step which, in the reasonable opinion of the Facility Agent, is or has become necessary or desirable for any Finance Document to be valid, enforceable or admissible in evidence in its jurisdiction of incorporation, any jurisdiction where the relevant Obligor has a place of business and the jurisdiction which is the relevant Vessel's Approved Flag State or to ensure or protect the priority of any Security Interest which it creates.

16.12 Access

If the Facility Agent reasonably suspects a Default is continuing or may occur and after consulting with the Borrower for not more than three Business Days it maintains that suspicion, each Obligor shall, and the Borrower shall ensure that each member of the Group will, permit the Facility Agent and/or the Security Agent and/or accountants or other professional advisers and contractors of the Facility Agent or Security Agent free access at all reasonable times and on reasonable notice at the risk and cost of the Obligor to (i) the premises, assets, books, accounts and records of each member of the Group and (ii) meet and discuss matters with senior management of the Borrower.

16.13 Financial assistance

Each Obligor shall (and the Borrower shall procure each other member of the Group will) comply in all respects with sections 678 and 679 of the Companies Act 2006 and any equivalent legislation in other jurisdictions including in relation to the execution of the Transaction Documents and payment of amounts due under this Agreement.

16.14 Amendments

- (a) No Obligor shall amend, vary, novate, supplement, supersede, waive or terminate any term of a Transaction Document or any other document delivered to the Facility Agent pursuant to Clause 3 (Conditions Precedent) or Clause 26 (Changes to the Obligors) (other than, and without prejudice to any other provision of this Agreement, any Charter, any Charter Guarantee or Ship Management Agreement) or enter into any agreement with any shareholders of the Borrower or any of their Affiliates which is not a member of the Restricted Group except in writing:
- (i) in accordance with Clause 25 (Amendments and Waivers);
 - (ii) to the extent that that amendment, variation, novation, supplement, superseding, waiver or termination is permitted by the Intercreditor Agreement; and
 - (iii) in a way which could not be reasonably expected materially and adversely to affect the interests of the Lenders (as a whole).
- (b) The Borrower shall promptly supply to the Facility Agent a copy of any document relating to any of the matters referred to in paragraphs (i) to (iii) above.

16.15 Related Contracts

Save as agreed to the contrary in or permitted by the Finance Documents, none of the Obligors shall take any action, enter into any document or agreement or omit to take any action or to enter into any document or agreement which would, or could reasonably be expected to, cause any Related Contract to cease to remain in full force and effect and shall use all reasonable endeavours to procure that each other party to any Related Contract does not take any action, enter into any document or agreement or omit to take any action or to enter into any document or agreement which would, or could reasonably be expected to, cause any Related Contract to cease to remain in full force and effect.

16.16 Environment

The relevant Obligor shall, and shall procure that the Manager shall, at all times after the Applicable Time:

- (a) comply with all applicable Environmental Laws including, without limitation, requirements relating to the establishment of financial responsibility (and shall require that all Environmental Affiliates of the Obligor comply with all applicable Environmental Laws) and obtain and comply with all required Environmental Approvals, which Environmental Laws and Environmental Approvals relate to its Vessel or her operation or her carriage of cargo; and

- (b) promptly upon the occurrence of any of the following events, provide to the Facility Agent a certificate of an officer of that member of the Restricted Group or of that member of the Restricted Group's agents specifying in detail the nature of the event concerned:
 - (i) the receipt by that member of the Restricted Group or any Environmental Affiliate (where that member of the Restricted Group has knowledge of the receipt) of any Environmental Claim in relation to its Vessel or any other vessel actually delivered to it; or
 - (ii) any Release of Hazardous Materials by its Vessel or any other vessel actually delivered to it.

16.17 Note Purchase Condition

- (a) No member of the Group will offer to purchase any Senior Secured Notes in accordance with clause 4.23 (Annual Mandatory Offer and Amortization) of the Senior Secured Note Indenture unless the 2nd, 4th and 6th payments falling due under Clause 5 of this Agreement have first been satisfied at least fifteen (15) days prior to the Annual Mandatory Offer Payment Date (as defined in the Senior Secured Notes) in such offer.
- (b) No member of the Group may otherwise repay, prepay, purchase, defease or redeem (or otherwise retire for value) any Notes Liabilities whatsoever (or offer to do so) (a **Note Repurchase**) unless the Loan and all other sums due under this Agreement have been irrevocably paid or repaid in full or unless the funds for such Note Repurchase have been raised solely by the issue of additional equity in the Borrower.

16.18 Obligatory Insurances

The Borrower shall notify the Facility Agent of any claim made by it or by any other Obligor under the Obligatory Insurances in respect of any Vessel, to the extent that such claim is in an amount greater than US\$2,000,000, and shall consult with the Facility Agent prior to settling, compromising or abandoning any such claim.

16.19 Sanctions

Each Obligor shall procure that no Vessel shall be the subject or target of Sanctions or serve under any charter or contract of affreightment with any foreign country or national of any foreign country which is the subject of Sanctions or is specified by legislation or regulations of its flag, if the consequence might be that receipt of any part of the income derived from the charter or contract of affreightment, or any Transaction Document or the security conferred by the Security Documents would be unlawful under any Applicable Law.

16.20 Mergers

Neither the Borrower nor GSLS will enter into any merger or other business combination or corporate reorganisation involving a consolidation of the assets and obligations of, respectively, the Borrower and/or GSLS with any other company or entity, if such action would have a Material Adverse Effect.

16.21 Cash Pooling and Set off

Each Obligor agrees that it will not enter into any cash pooling agreements of any nature with the Account Bank, and will not otherwise permit or instruct the Account Bank (as defined in the Earnings Account Security Agreement) to, take or omit to take any action that would give rise to any right that the Account Bank may have to undertake any cash management (including but not limited to any netting and/or cash pooling arrangements) in relation to any amounts held from time to time in that Obligor's Earnings Account which would, or might, give rise to any right on the part of the Account Bank to exercise any rights of set off in respect of any amounts held from time to time in that Obligor's Earnings Account. Notwithstanding the foregoing sentence, each Obligor will be entitled to provide payment instructions to the Account Bank in relation to amounts held from time to time in that Obligor's Earnings Account through its online cash management system in relation to day to day payments in connection with the operation of such Obligor's Vessel and the conduct of such Obligor's own business (but excluding in any event any instructions in connection with any netting or cash pooling arrangements).

17. FINANCIAL COVENANT

17.1 Interpretation

- (a) Except as provided to the contrary in this Agreement, an accounting term used in this Clause is to be construed in accordance with U.S. GAAP.
- (b) Any amount in a currency other than Dollars is to be taken into account at its Dollar equivalent calculated on the basis of:
- (i) the Facility Agent's spot rate of exchange for the purchase of the relevant currency in the London foreign exchange market with Dollars at or about 11.00 a.m. on the day the relevant amount falls to be calculated; or
 - (ii) if the amount is to be calculated on the last day of a financial period of the Obligor, the relevant rates of exchange used by the Obligor in, or in connection with, its financial statements for that period.
- (c) No item must be credited or deducted more than once in any calculation under this Clause.

17.2 Cash Balance

The Borrower must ensure that on each of the dates specified below the Cash Balance is equal to or exceeds the amount set opposite such date below (each a **Test Date**):

<u>DATE</u>	<u>AMOUNT</u>
Utilisation Date	US \$20,000,000
31 December 2017	US\$ 20,000,000
31 March 2018	US\$ 20,000,000
30 June 2018	US\$ 20,000,000
31 September 2018	US\$ 20,000,000
31 December 2018	US\$ 20,000,000
31 March 2019	US\$ 20,000,000
30 June 2019	US\$ 20,000,000
31 September 2019	US\$ 20,000,000
31 December 2019	US\$ 20,000,000
31 March 2020	US\$ 20,000,000
30 June 2020	US\$ 20,000,000
31 September 2020	US\$ 20,000,000

18. DEFAULT

18.1 Events of Default

Each of the events set out in this Clause 18 is an Event of Default (save for Clause 18.14 (Acceleration)).

18.2 Non-payment

An Obligor does not pay on the due date any amount payable by it under the Finance Documents in the manner required under the Finance Documents and such non-payment is not remedied within four Business Days of the due date.

18.3 Breach of other obligations

Each Obligor does not comply with any term of the Finance Documents, unless the non-compliance:

- (a) is capable of remedy; and
- (b) is remedied within seven Business Days of the Facility Agent giving notice to the Borrower.

The Obligors acknowledge that for the purposes of paragraph (a) above, non-compliance with the following shall not be capable of remedy:

- (i) paragraphs (a) and (b) of Clause 16.11 (Security); and
- (ii) Clause 17 (Financial Covenant).

18.4 Misrepresentation

A representation made or repeated by an Obligor (or by any other Party other than a Finance Party) in any Finance Document or in any document delivered by or on behalf of an Obligor under any Finance Document is incorrect in any material respect when made or deemed to be repeated.

18.5 Cross-default

Any of the following occurs in respect of any member of the Restricted Group:

- (a) any of its Financial Indebtedness is not paid when due (after the expiry of any originally applicable grace period);
- (b) any of its Financial Indebtedness:

- (i) becomes prematurely due and payable; or
- (ii) is placed on demand; or
- (iii) is capable of being declared by a creditor to be prematurely due and payable or being placed on demand,

in each case, as a result of an event of default (howsoever described) and after the expiry of any applicable grace period, or any commitment for its Financial Indebtedness is cancelled or suspended as a result of an event of default (howsoever described), unless the aggregate amount of Financial Indebtedness falling within paragraphs (a) and (b) above is less than US\$25,000,000 or its equivalent.

18.6 Insolvency

Any of the following occurs in respect of a member of the Restricted Group:

- (a) it is, or is deemed for the purposes of any Applicable Law to be, unable to pay its debts as they fall due or insolvent;
- (b) it admits its inability to pay its debts as they fall due;
- (c) it suspends making payments on any of its debts or announces an intention to do so;
- (d) by reason of actual or anticipated financial difficulties, it begins negotiations with any creditor for the rescheduling of any of its indebtedness; or
- (e) a moratorium is declared in respect of any of its indebtedness.

If a moratorium occurs in respect of a member of the Restricted Group, the ending of the moratorium will not remedy any Event of Default caused by the moratorium.

18.7 Insolvency proceedings

- (a) Except as provided in paragraph (b) below, any of the following occurs in respect of a member of the Restricted Group:
 - (i) any step is taken with a view to a moratorium, a composition, assignment or similar arrangement with any of its creditors;
 - (ii) a meeting of its shareholders, directors or other officers is convened for the purpose of considering any resolution to petition for or to file documents with a court for its winding-up, administration or dissolution and any such resolution is passed;
 - (iii) any person presents a petition, or files documents with a court for its winding-up, administration or dissolution;
 - (iv) an order for its winding-up, administration or dissolution is made;
 - (v) any liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer is appointed in respect of it or any of its material assets;

(vi) its directors, shareholders or other officers request the appointment of, or give notice of their intention to appoint a liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer; or

(vii) any other analogous step or procedure is taken in any jurisdiction.

(b) Paragraph (a) above does not apply to a frivolous or vexatious petition for winding-up presented by a creditor which is being contested in good faith and with due diligence and is discharged or struck out within fourteen days or other action is taken with the prior consent of the Facility Agent.

18.8 Creditors' process

Any attachment, sequestration, distress, execution or analogous event affects any asset(s) of a member of the Restricted Group, having an aggregate value of (US\$15,000,000) or its equivalent and is not discharged within fourteen days.

18.9 Cessation of business

A member of the Restricted Group ceases, or threatens to cease, to carry on business except as a result of any disposal not prohibited under this Agreement.

18.10 Failure to pay final judgment

Any member of the Restricted Group fails to comply with or pay any sum due from it under any final judgment or any final order made or given by any court of competent jurisdiction within the time given for payment.

18.11 Effectiveness of Finance Documents

- (a) It is or becomes unlawful for an Obligor or any other Party (other than a Finance Party) to perform any of its material obligations under the Finance Documents.
- (b) Any Finance Document is not effective or is alleged by an Obligor to be ineffective for any reason.
- (c) Any material provision of a Finance Document is not effective or is alleged by any Party (other than a Finance Party or an Obligor) to be ineffective for any reason.
- (d) An Obligor repudiates any material provision of a Finance Document or evidences an intention to repudiate any material provision of a Finance Document.
- (e) Any Party (other than a Finance Party) repudiates any material provision of a Finance Document or evidences an intention to repudiate any material provision of a Finance Document.

18.12 Unlawfulness and invalidity

- (a) It is or becomes unlawful for an Obligor to perform any of its obligations under the Finance Documents or any Security Interest created or expressed to be created or evidenced by the Security Documents ceases to be effective or any subordination created under the Intercreditor Agreement is or becomes unlawful.
- (b) Any obligation or obligations of any Obligor under any Finance Documents are not or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of the Lenders under the Finance Documents.
- (c) Any Finance Document ceases to be in full force and effect or any Security Interest over any Security Asset or any subordination created under the Intercreditor Agreement ceases to be legal, valid, binding, enforceable or effective or is alleged by a party to it (other than a Finance Party) to be ineffective.

18.13 Intercreditor Agreement

- (a) Any Intra-Group Lender (as defined in the Intercreditor Agreement) or any Obligor fails to comply with the provisions of, or does not perform its obligations under, the Intercreditor Agreement; or
- (b) a representation or warranty given by that party in the Intercreditor Agreement is incorrect in any material respect, and, if the non-compliance or circumstances giving rise to the misrepresentation are capable of remedy, it is not remedied within seven Business Days of the earlier of the Facility Agent giving notice to that party or that party becoming aware of the non-compliance or misrepresentation.

18.14 Acceleration

On and at any time after the occurrence of an Event of Default which is continuing the Facility Agent may, and shall if so directed by the Majority Lenders, by notice to the Borrower:

- (a) cancel all or any part of the Commitments at which time they shall immediately be cancelled;
- (b) declare that all or part of the Loan, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents be immediately due and payable, at which time they shall become immediately due and payable;
- (c) declare that all or part of the Loan be payable on demand, at which time it shall immediately become payable on demand by the Facility Agent on the instructions of the Majority Lenders;
- (d) exercise or direct the Security Agent to exercise any or all of its rights, remedies, powers or discretions under the Finance Documents.

19. THE ADMINISTRATIVE PARTIES

19.1 Appointment and duties of the Facility Agent

- (a) Each of the Arranger and the Lenders irrevocably appoints the Facility Agent to act as its agent under the Finance Documents.
- (b) Each Finance Party irrevocably authorises the Facility Agent on its behalf to:
 - (i) perform the duties and to exercise the rights, powers and discretions that are specifically given to it under the Finance Documents, together with any other incidental rights, powers and discretions; and

- (ii) execute each Finance Document expressed to be executed by the Facility Agent on that Party's behalf.
- (c) The Facility Agent has only those duties which are expressly specified in the Finance Documents. Those duties are solely of a mechanical and administrative nature.

19.2 Instructions

- (a) The Facility Agent shall:
 - (i) unless a contrary indication appears in a Finance Document, exercise or refrain from exercising any right, power, authority or discretion vested in it as Facility Agent in accordance with any instructions given to it by:
 - (A) all Lenders if the relevant Finance Document stipulates the matter is an all Lender decision; and
 - (B) in all other cases, the Majority Lenders;
 - (ii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with paragraph (i) above.
- (b) The Facility Agent shall be entitled to request instructions, or clarification of any instruction, from the Majority Lenders (or, if the relevant Finance Document stipulates the matter is a decision for any other Lender or group of Lenders, from that Lender or group of Lenders) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Facility Agent may refrain from acting unless and until it receives those instructions or that clarification.
- (c) Save in the case of decisions stipulated to be a matter for any other Lender or group of Lenders under the relevant Finance Document and unless a contrary indication appears in a Finance Document, any instructions given to the Facility Agent by the Majority Lenders shall override any conflicting instructions given by any other Parties and will be binding on all Finance Parties save for the Security Agent.
- (d) The Facility Agent may refrain from acting in accordance with any instructions of any Lender or group of Lenders until it has received any indemnification and/or security that it may in its discretion require (which may be greater in extent than that contained in the Finance Documents and which may include payment in advance) for any cost, loss or liability which it may incur in complying with those instructions.
- (e) In the absence of instructions, the Facility Agent may act (or refrain from acting) as it considers to be in the best interest of the Lenders.
- (f) The Facility Agent is not authorised to act on behalf of a Lender (without first obtaining that Lender's consent) in any legal or arbitration proceedings relating to any Finance Document. This paragraph (f) shall not apply to any legal or arbitration proceeding relating to the perfection, preservation or protection of rights under the Security Documents or enforcement of the Transaction Security or Security Documents.

19.3 Duties of the Facility Agent

- (a) The Facility Agent's duties under the Finance Documents are solely mechanical and administrative in nature.
- (b) Subject to paragraph (c) below, the Facility Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Facility Agent for that Party by any other Party.
- (c) Paragraph (b) above shall not apply to any Transfer Certificate or any Increase Confirmation.
- (d) Except where a Finance Document specifically provides otherwise, the Facility Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (e) If the Facility Agent receives notice from a Party referring to this Agreement, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the other Finance Parties.
- (f) If the Facility Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Finance Party (other than the Facility Agent, the Arranger or the Security Agent) under this Agreement it shall promptly notify the other Finance Parties.
- (g) The Facility Agent shall have only those duties, obligations and responsibilities expressly specified in the Finance Documents to which it is expressed to be a party (and no others shall be implied).

19.4 Role of the Arranger and Bookrunner

Except as specifically provided in the Finance Documents, the Arranger and the Bookrunner (in their respective capacities as Arranger and Bookrunner) have no obligations of any kind to any other Party under or in connection with any Finance Document.

19.5 No fiduciary duties

- (a) Nothing in any Finance Document constitutes the Facility Agent, the Arranger or the Bookrunner as a trustee or fiduciary of any other person.
- (b) None of the Facility Agent, the Arranger or the Bookrunner shall be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

19.6 Business with the Group

The Facility Agent, the Arranger or the Bookrunner may accept deposits from, lend money to and generally engage in any kind of banking or other business with any member of the Group.

19.7 Rights and discretions

- (a) The Facility Agent may:
- (i) rely on any representation, communication, notice or document (including, without limitation, any notice given by a Lender pursuant to paragraphs (b) or (c) of Clause 28.1 (Disenfranchisement on Debt Purchase Transactions entered into by Sponsor Affiliates)) believed by it to be genuine, correct and appropriately authorised;
 - (ii) assume that:
 - (A) any instructions received by it from the Majority Lenders, any Lenders or any group of Lenders are duly given in accordance with the terms of the Finance Documents; and
 - (B) unless it has received notice of revocation, that those instructions have not been revoked; and
 - (iii) rely on a certificate from any person:
 - (A) as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or
 - (B) to the effect that such person approves of any particular dealing, transaction, step, action or thing, as sufficient evidence that that is the case and, in the case of paragraph (iii)(A) above, may assume the truth and accuracy of that certificate.
- (b) The Facility Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Lenders) that:
- (i) no Default has occurred (unless it has actual knowledge of a Default arising under Clause 18.2 (Non-payment));
 - (ii) any right, power, authority or discretion vested in any Party or any group of Lenders has not been exercised;
 - (iii) any notice or request made by the Borrower (other than a Request) is made on behalf of and with the consent and knowledge of all the Obligors; and
 - (iv) no Notifiable Debt Purchase Transaction:
 - (A) has been entered into;
 - (B) has been terminated; or
 - (C) has ceased to be with a Sponsor Affiliate.
- (c) The Facility Agent may engage and pay for the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts.
- (d) Without prejudice to the generality of paragraph (c) above or paragraph (e) below, the Facility Agent may at any time engage and pay for the services of any lawyers to act as independent counsel to the Facility Agent (and so separate from any lawyers instructed by the Lenders) if the Facility Agent in its reasonable opinion deems this to be desirable.
- (e) The Facility Agent may rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Facility Agent or by any other Party) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.

- (f) The Facility Agent may act in relation to the Finance Documents through its officers, employees and agents and the Facility Agent shall not:
- (i) be liable for any error of judgment made by any such person; or
 - (ii) be bound to supervise, or be in any way responsible for any loss incurred by reason of misconduct, omission or default on the part, of any such person,

unless such error or such loss was directly caused by the Facility Agent's gross negligence or wilful misconduct.

- (g) Unless a Finance Document expressly provides otherwise the Facility Agent may disclose to any other Party any information it reasonably believes it has received as agent under this Agreement.
- (h) Notwithstanding any other provision of any Finance Document to the contrary, none of the Facility Agent, the Arranger or the Bookrunner is obliged to do or omit to do anything if it would, or might in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.
- (i) The Facility Agent is not obliged to disclose to any Finance Party any details of the rate notified to the Facility Agent by any Lender or the identity of any such Lender for the purpose of paragraph (a)(ii) of Clause 9.2 (Market disruption).
- (j) Notwithstanding any provision of any Finance Document to the contrary, the Facility Agent is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.
- (k) The Agent may refrain without liability from doing anything that would or might in its opinion be contrary to any law of any state or jurisdiction (including but not limited to the United States of America or any jurisdiction forming a part of it and England & Wales) or any directive or regulation of any agency of any such state or jurisdiction and may without liability do anything which is, in its opinion, necessary to comply with any such law, directive or regulation.

19.8 Responsibility for documentation

None of the Facility Agent, the Arranger or the Bookrunner is responsible or liable for:

- (a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Facility Agent, an Arranger, the Bookrunner, an Obligor or any other person in or in connection with any Finance Document or the transactions contemplated in the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document or the Transaction Security or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security; or

- (c) any determination as to whether any information provided or to be provided to any Finance Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

19.9 No duty to monitor

The Facility Agent shall not be bound to enquire:

- (a) whether or not any Default has occurred;
- (b) as to the performance, default or any breach by any Party of its obligations under any Finance Document; or
- (c) whether any other event specified in any Finance Document has occurred.

19.10 Exclusion of liability

- (a) Without limiting paragraph (b) below (and without prejudice to any other provision of any Finance Document excluding or limiting the liability of the Facility Agent), the Facility Agent will not be liable for:
 - (i) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with any Finance Document or the Transaction Security, unless directly caused by its gross negligence or wilful misconduct;
 - (ii) exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with, any Finance Document, the Transaction Security or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Finance Document or the Transaction Security; or
 - (iii) without prejudice to the generality of paragraphs (i) and (ii) above, any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of:
 - (A) any act, event or circumstance not reasonably within its control; or
 - (B) the general risks of investment in, or the holding of assets in, any jurisdiction,

including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of: nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets (including any Disruption Event); breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.

- (b) No Party (other than the Facility Agent) may take any proceedings against any officer, employee or agent of the Facility Agent, in respect of any claim it might have against the Facility Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document and any officer, employee or agent of the Facility Agent may rely on this Clause.

- (c) The Facility Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by the Facility Agent if the Facility Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Facility Agent for that purpose.
- (d) Nothing in this Agreement shall oblige the Facility Agent, the Arranger or the Bookrunner to carry out:
 - (i) any “know your customer” or other checks in relation to any person; or
 - (ii) any check on the extent to which any transaction contemplated by this Agreement might be unlawful for any Lender,on behalf of any Lender and each Lender confirms to the Facility Agent, the Arranger and the Bookrunner that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Facility Agent, the Arranger or the Bookrunner.
- (e) Without prejudice to any provision of any Finance Document excluding or limiting the Facility Agent’s liability, any liability of the Facility Agent arising under or in connection with any Finance Document or the Transaction Security shall be limited to the amount of actual loss which has been finally judicially determined to have been suffered (as determined by reference to the date of default of the Facility Agent or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Facility Agent at any time which increase the amount of that loss. In no event shall the Facility Agent be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Facility Agent has been advised of the possibility of such loss or damages.

19.11 Lenders’ indemnity to the Facility Agent

- (a) Each Lender shall (in proportion to its share of the Commitments or, if the Commitments are then zero, to its share of the Commitments immediately prior to their reduction to zero) indemnify the Facility Agent, within three Business Days of demand, against any cost, loss or liability incurred by the Facility Agent (otherwise than by reason of the Facility Agent’s gross negligence or wilful misconduct) in acting as Agent under the Finance Documents (unless the Facility Agent has been reimbursed by an Obligor pursuant to a Finance Document).
- (b) Subject to paragraph (c) below, the Borrower shall immediately on demand reimburse any Lender for any payment that Lender makes to the Facility Agent pursuant to paragraph (a) above.
- (c) Paragraph (b) above shall not apply to the extent that the indemnity payment in respect of which the Lender claims reimbursement relates to a liability of the Facility Agent to an Obligor.

19.12 Resignation of the Facility Agent

- (a) The Facility Agent may resign and appoint one of its Affiliates as successor by giving notice to the Lenders and the Borrower.
- (b) Alternatively the Facility Agent may resign by giving thirty days' notice to the Lenders and the Borrower, in which case the Majority Lenders (after consultation with the Borrower) may appoint a successor Facility Agent.
- (c) If the Majority Lenders have not appointed a successor Facility Agent in accordance with paragraph (b) above within twenty days after notice of resignation was given, the retiring Facility Agent (after consultation with the Borrower) may appoint a successor Facility Agent.
- (d) If the Facility Agent wishes to resign because (acting reasonably) it has concluded that it is no longer appropriate for it to remain as agent and the Facility Agent is entitled to appoint a successor Facility Agent under paragraph (c) above, the Facility Agent may (if it concludes (acting reasonably) that it is necessary to do so in order to persuade the proposed successor Facility Agent to become a party to this Agreement as Facility Agent) agree with the proposed successor Facility Agent amendments to this Clause 19 and any other term of this Agreement dealing with the rights or obligations of the Facility Agent consistent with then current market practice for the appointment and protection of corporate trustees together with any reasonable amendments to the agency fee payable under this Agreement which are consistent with the successor Facility Agent's normal fee rates and those amendments will bind the Parties.
- (e) The retiring Facility Agent shall make available to the successor Facility Agent such documents and records and provide such assistance as the successor Facility Agent may reasonably request for the purposes of performing its functions as Facility Agent under the Finance Documents. The Borrower shall, within three Business Days of demand, reimburse the retiring Facility Agent (unless the retiring Facility Agent is an Impaired Agent) for the amount of all costs and expenses (including legal fees) properly incurred by it in making available such documents and records and providing such assistance.
- (f) The Facility Agent's resignation notice shall only take effect upon the appointment of a successor.
- (g) Upon the appointment of a successor, the retiring Facility Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (e) above) but shall remain entitled to the benefit of Clause 22 (Indemnities and break costs) and this Clause 19 (and any agency fees for the account of the retiring Facility Agent shall cease to accrue from (and shall be payable on) that date). Any successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.

19.13 Replacement of the Facility Agent

- (a) After consultation with the Borrower, the Majority Lenders may, by giving thirty (30) days' notice to the Facility Agent (or, at any time the Facility Agent is an Impaired Agent, by giving any shorter notice determined by the Majority Lenders) replace the Facility Agent by appointing a successor Facility Agent.

- (b) The retiring Facility Agent shall (at its own cost if it is an Impaired Agent and otherwise at the expense of the Lenders) make available to the successor Facility Agent such documents and records and provide such assistance as the successor Facility Agent may reasonably request for the purposes of performing its functions as Facility Agent under the Finance Documents.
- (c) The appointment of the successor Facility Agent shall take effect on the date specified in the notice from the Majority Lenders to the retiring Facility Agent. As from this date, the retiring Facility Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (b) above) but shall remain entitled to the benefit of Clause 22 (Indemnities and break costs) and this Clause 19 (and any agency fees for the account of the retiring Facility Agent shall cease to accrue from (and shall be payable on) that date).
- (d) Any successor Facility Agent and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.

19.14 Confidentiality

- (a) In acting as agent for the Finance Parties, the Facility Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.
- (b) If information is received by another division or department of the Facility Agent, it may be treated as confidential to that division or department and the Facility Agent shall not be deemed to have notice of it.
- (c) Notwithstanding any other provision of any Finance Document to the contrary, neither the Facility Agent, the Arranger nor the Bookrunner is obliged to disclose to any other person (i) any confidential information or (ii) any other information if the disclosure would, or might in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty.

19.15 Relationship with the Lenders

- (a) The Facility Agent may treat the person shown in its records as Lender at the opening of business (in the place of the Facility Agent's principal office as notified to the Finance Parties from time to time) as the Lender acting through its Facility Office:
 - (i) entitled to or liable for any payment due under any Finance Document on that day; and
 - (ii) entitled to receive and act upon any notice, request, document or communication or make any decision or determination under any Finance Document made or delivered on that day,unless it has received not less than five Business Days' prior notice from that Lender to the contrary in accordance with the terms of this Agreement.
- (b) Any Lender may by notice to the Facility Agent appoint a person to receive on its behalf all notices, communications, information and documents to be made or despatched to that Lender under the Finance Documents.

19.16 Credit appraisal by the Lenders

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Lender confirms to the Facility Agent and each Arranger that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

- (a) the financial condition, status and nature of each member of the Group;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document, the Transaction Security and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security;
- (c) whether that Lender has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the Transaction Security, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security;
- (d) the adequacy, accuracy or completeness of any information provided by the Facility Agent, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and
- (e) the right or title of any person in or to, or the value or sufficiency of any part of the Security Assets, the priority of any of the Transaction Security or the existence of any Security Interest affecting the Security Assets.

19.17 Deduction from amounts payable by the Facility Agent

If any Party owes an amount to the Facility Agent under the Finance Documents the Facility Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Facility Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.

19.18 Reliance and engagement letters

Each Finance Party and Secured Party (other than, in each case, the Security Agent) confirms that the Arranger and the Facility Agent has authority to accept on its behalf (and ratifies the acceptance on its behalf of any letters or reports already accepted by the Arranger or Agent) the terms of any reliance letter or engagement letters relating to any reports or letters provided by accountants in connection with the Finance Documents or the transactions contemplated in the Finance Documents and to bind it in respect of those reports or letters and to sign such letters on its behalf and further confirms that it accepts the terms and qualifications set out in such letters.

19.19 Role of the Security Agent

- (a) In acting or otherwise exercising its rights or performing its duties under any of the Finance Documents, the Security Agent shall act in accordance with the provisions of this Agreement and the Intercreditor Agreement and shall seek any necessary instruction or direction from the Facility Agent. In so acting, the Security Agent shall have the rights, duties, benefits, obligations, protections, indemnities and immunities set out in this Agreement and the Intercreditor Agreement (the **Security Agent Provisions**) and shall not incur any liability to any Party. For the avoidance of doubt, the Security Agent shall have no duty to monitor the amount of the Loan due to any of the Lenders under this Agreement.
- (b) The Security Agent Provisions (other than the duties and obligations referenced in such definition (with the exception of the duties and obligations referenced in paragraph (f) of Clause 18.13 of the Intercreditor Agreement)) contained in the Intercreditor Agreement are for the benefit of the Security Agent and shall survive the discharge or termination of the Intercreditor Agreement and the resignation of the Security Agent.

20. EVIDENCE AND CALCULATIONS

20.1 Accounts

Accounts maintained by the Facility Agent in connection with this Agreement are conclusive (save for manifest error) evidence of the matters to which they relate for the purpose of any litigation or arbitration proceedings and shall provide a reasonably detailed breakdown.

20.2 Certificates and determinations

Any certification or determination by the Facility Agent of a rate or amount under the Finance Documents (including any demand under an indemnity or with respect to costs and expenses to be reimbursed) will be, in the absence of manifest error, conclusive evidence of the matters to which it relates and shall include a reasonably detailed breakdown (and, if reasonably requested by the Borrower, relevant supporting documentation, if any).

20.3 Calculations

Any interest or fee accruing under this Agreement accrues from day to day and is calculated on the basis of the actual number of days elapsed and a year of three hundred and sixty days or otherwise, depending on what the Facility Agent determines is market practice.

21. FEES

21.1 Commitment fee

- (a) If the Utilisation Date has not occurred by the eighth day after the date of this Agreement, the Borrower shall pay to the Facility Agent (for the account of each Lender) a fee in Dollars computed at the rate of one point three per cent. (1.30%) per annum on that Lender's Commitment commencing with effect from (and including) the eighth day after the date of this Agreement.
- (b) The accrued commitment fee is payable on the earlier of (i) the Utilisation Date, (ii) on the last day of the Availability Period and (iii) the date on which the Commitments are cancelled in accordance with Clause 6.5 (Automatic Cancellation).

21.2 Arrangement fee

The Borrower must pay to the Arranger an arrangement fee in the manner agreed in a Fee Letter between the Arranger and the Borrower.

21.3 Facility Agent's fee

The Borrower must pay to the Facility Agent (for its own account) an agency fee in the manner agreed in a Fee Letter between the Facility Agent and the Borrower.

21.4 Security Agent fee

The Borrower shall pay to the Security Agent (for its own account) a security agent fee in the amount and at the times agreed in a Fee Letter between the Security Agent and the Borrower.

21.5 Refund of fees

The fees referred to in this Clause 21 and the Fee Letter shall not be refunded under any circumstances whatsoever once they have been paid.

22. INDEMNITIES AND BREAK COSTS

22.1 Currency indemnity

- (a) Each Obligor shall, as an independent obligation and within three Business Days of demand, indemnify each Finance Party against any cost, loss or liability which that Finance Party incurs as a consequence of:
 - (i) the Finance Party receiving an amount in respect of any Obligor's liability under the Finance Documents; or
 - (ii) that liability being converted into a claim, proof, judgment or order,
in a currency other than the currency in which the amount is expressed to be payable under the relevant Finance Document.
- (b) Each Obligor waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency other than that in which it is expressed to be payable.

22.2 Other indemnities

- (a) Each Obligor shall, as an independent obligation and within three Business Days of demand, indemnify the Finance Parties and in each case, each of their Affiliates and each of their respective officers, directors, employees, agents, advisors and representatives (each, an Indemnified Party in whatever capacity) against any cost, loss or liability which that Finance Party incurs as a consequence of:
 - (i) the occurrence of any Event of Default;
 - (ii) any failure by the Obligors to pay any amount due under a Finance Document on its due date;
 - (iii) (other than by reason of negligence or default by that Finance Party) the Loan (or part of the Loan) not being made after the Request has been delivered; or

(iv) the Loan (or part of the Loan) not being prepaid in accordance with a notice of prepayment.

The liability of the Obligor in each case includes any cost, loss or expense on account of funds borrowed, contracted for or utilised to fund any amount payable under any Finance Document, any amount repaid or prepaid or the Loan.

- (b) Each Obligor must indemnify against any cost, loss or liability incurred by any Indemnified Party as a result of:
- (i) investigating any event which that Indemnified Party reasonably believes to be a Default; or
 - (ii) acting or relying on any notice of that Obligor which that Indemnified Party reasonably believes to be genuine, correct and appropriately authorised.
- (c) The Obligors must indemnify and agree to hold harmless each Indemnified Party from and against any and all claims, damages, losses, liabilities, costs, legal expenses and expenses (altogether Losses), joint or several, that may be incurred by or asserted or awarded against any Indemnified Party, in each case arising out of or in connection with or relating to any claim, investigation, litigation or proceeding (or the preparation of any defence with respect thereto) commenced or threatened in relation to the Finance Documents or the Related Contracts (or the transactions contemplated hereby or thereby) or any use made or proposed to be made with the proceeds of the Facility. This indemnity shall apply whether or not such claims, investigation, litigation or proceeding is brought by any of the Obligors, any of the shareholders of the Obligors or any of the creditors of the Obligors, an Indemnified Party or any other person, or an Indemnified Party is otherwise a party thereto, except to the extent such Losses are found in a final, non-appealable judgment by a court of competent jurisdiction to have resulted from such Indemnified Party's gross negligence or wilful misconduct.
- (d) No Indemnified Party shall have any liability (whether direct or indirect, in contract, tort or otherwise) to the Obligors or any shareholders or creditors of the Obligors for or in connection with the transactions referred to in paragraph (c) above, except for direct (as opposed to indirect or consequential) damages or losses to the extent such liability is found in a final non appealable judgment by a court of competent jurisdiction to have resulted from such Indemnified Party's gross negligence or wilful misconduct.
- (e) The Obligors must indemnify and hold each Indemnified Party harmless on a full indemnity basis, from and against each and every Loss:
- (i) arising directly or indirectly out of or in any way connected with the ownership, possession, performance, transportation, management, sale, import to or export from any jurisdiction, control, use or operation, registration, navigation, certification, classification, management, manning, provisioning, the provision of bunkers and lubricating oils, testing, design, condition, delivery, acceptance, leasing, subleasing, chartering, insurance, maintenance, repair, service, modification, refurbishment, dry docking, survey, conversion, overhaul, replacement, removal, repossession, return, redelivery, storage, sale, disposal, the complete or partial removal, decommissioning, making safe, destruction, abandonment or loss by the Obligors, or any other person of any of the Vessels or caused by any of the Vessels becoming a wreck or an obstruction to navigation, whether or not such liability may be attributable to any defect in any of the Vessels or to the design, construction or use thereof or from any maintenance, service, repair, dry docking, overhaul, inspection or for any other reason whatsoever (whether similar to any of the foregoing or not), and regardless of when the same shall arise and whether or not any of the Vessels (or any part thereof) is in possession or control of the Obligors, or the Manager or any other person and whether or not the same is in United Kingdom waters or abroad;

- (ii) arising directly or indirectly out of or in any way connected with any Release of Hazardous Material, any Environmental Claim in respect of a Vessel, or any breach of an Environmental Law or the terms and conditions of an Environmental Approval;
 - (iii) as a consequence of any claim that any design, article or material in any of the Vessels or any part thereof or relating thereto or the operation or use thereof constitutes an infringement of patent, copyright, design or other proprietary right; or
 - (iv) in preventing or attempting to prevent the arrest, seizure, taking in execution, requisition, impounding, forfeiture or detention of any of the Vessels or in securing or attempting to secure the release of any of the Vessels.
- (f) Paragraph (e) above shall not extend to any Loss incurred by the Finance Parties to the extent that such Loss is a result of the gross negligence or wilful misconduct of any of the Finance Parties.

22.3 Break Costs

- (a) Each Obligor must pay to each Lender, its Break Costs in accordance with this Agreement.
- (b) In respect of a Lender, Break Costs are the amount (if any) determined by the relevant Lender by which:
 - (i) the interest (excluding the Margin) which that Lender would have received for the period from the date of receipt of payment of the Loan or an overdue amount to the last day of the current Interest Period for the Loan or overdue amount if the principal or overdue amount received had been paid on the last day of that Interest Period;
exceeds
 - (ii) the amount which that Lender would be able to obtain by placing an amount equal to the amount received by it on deposit with a leading bank in the appropriate interbank market for a period starting on the Business Day following receipt and ending on the last day of the applicable Interest Period.
- (c) Each Lender must supply to the Borrower details of the amount of any Break Costs claimed by it under this Clause 22.

23. EXPENSES

23.1 Initial costs

The Borrower must pay to each Finance Party the amount of all costs and expenses (including legal fees) properly incurred by it in connection with (but not limited to) the negotiation, preparation, printing and execution of the Finance Documents.

23.2 Subsequent costs

The Borrower must pay to each Finance Party the amount of all costs and expenses (including reasonable or otherwise capped legal fees) incurred by it in connection with:

- (a) the negotiation, preparation, printing and execution of any Finance Document (other than a Transfer Certificate) executed after the date of this Agreement; and
- (b) any amendment, waiver or consent requested by or on behalf of the Obligors or specifically allowed by this Agreement.

The Borrower shall not be required to bear the amount of any costs and expenses (including reasonable or otherwise capped legal fees) incurred by a Lender or a New Lender (as that term is defined in Clause 27.1 (Assignments and transfers by Lenders)) in connection with any voluntary transfer made by a Lender under this Agreement or any of the Security Documents.

23.3 Enforcement costs

The Borrower must pay to each Finance Party the amount of all costs and expenses (including legal fees) incurred by it in connection with the enforcement or attempted enforcement of, or the preservation or attempted preservation of any rights under, any Finance Document.

24. WAIVER OF CONSEQUENTIAL DAMAGES

In no event shall any Finance Party be liable on any theory of liability for any special, indirect, consequential or punitive damages and each Obligor hereby waives, releases and agrees (for itself and on behalf of its Subsidiaries) not to sue upon any such claim for any such damages, unless caused by the fraud, wilful default or gross negligence of the relevant Finance Party in performance of any of its obligations under this Agreement or any of the Finance Documents.

25. AMENDMENTS AND WAIVERS

25.1 Procedure

- (a) Except as provided in this Clause 25, no term of the Finance Documents may be amended or waived without the agreement of the Borrower and the Majority Lenders. The Facility Agent may effect, on behalf of any Finance Party, an amendment or waiver allowed under this Clause 25.
- (b) The Facility Agent must promptly notify the other Parties of any amendment or waiver effected by it under paragraph (a) above. Any such amendment or waiver is binding on all the Parties.

25.2 Exceptions

- (a) An amendment or waiver which relates to:
 - (i) the definition of Majority Lenders in Clause 1.1 (Definitions);
 - (ii) an extension of the date of payment of any amount under the Finance Documents;
 - (iii) a reduction in the amount of any payment of principal, interest, fee or other amount payable under the Finance Documents;

- (iv) an increase in, or an extension of, any Commitment, an extension of any Availability Period or any requirement that a cancellation of Commitments reduces the Commitments rateably under the Facility;
 - (v) a release of an Obligor (other than as required by the terms of the Intercreditor Agreement);
 - (vi) a term of a Finance Document which expressly requires the consent of each Lender;
 - (vii) the right of a Lender to assign or transfer its rights or obligations under the Finance Documents;
 - (viii) a reduction in the Margin;
 - (ix) the release of any Security Document other than in accordance with the terms of this Agreement; or
 - (x) Clause 2.5 (Nature of a Finance Party's rights and obligations), Clause 6.1 (Illegality), Clause 6.3 (Disposal Proceeds), Clause 6.4 (Mandatory prepayment – amortisation offer under Senior Secured Note Documents), paragraph (d) of Clause 6.9 (Miscellaneous provisions), Clause 16.17 (Note Purchase Condition) or this Clause 25;
 - (xi) (other than as expressly permitted by the provisions of any Finance Document) the nature or scope of:
 - (A) the guarantee and indemnity granted under Clause 13 (Guarantee and indemnity);
 - (B) the Security Assets; or
 - (C) the manner in which the proceeds of enforcement of the Transaction Security are distributed,

(except in the case of paragraphs (B) and (C) above, insofar as it relates to a sale or disposal of an asset which is the subject of the Transaction Security where such sale or disposal is expressly permitted under this Agreement or any other Finance Document);
 - (xii) the release of any guarantee and indemnity granted under Clause 13 (Guarantee and indemnity) or of any Transaction Security unless permitted under this Agreement or any other Finance Document or relating to a sale or disposal of an asset which is the subject of the Transaction Security where such sale or disposal is expressly permitted under this Agreement or any other Finance Document; or
 - (xiii) any amendment to the order of priority or subordination under the Intercreditor Agreement,

may only be made with the consent of all the Lenders and the Borrower such consent not to be unreasonably withheld or delayed.
- (b) An amendment or waiver which relates to the rights or obligations of an Administrative Party may only be made with the consent of that Administrative Party.

25.3 Replacement of Lender

- (a) If:
- (i) any Lender becomes a Non-Consenting Lender (as defined in paragraph (d) below); or
 - (ii) an Obligor becomes obliged to repay any amount in accordance with Clause 6.1 (Illegality) or to pay additional amounts pursuant to Clause 11.1 (Increased Costs), Clause 10.1 (Tax gross-up) or Clause 10.2 (Tax Indemnity) to any Lender,
- then the Borrower may, on 10 Business Days' prior written notice to the Facility Agent and such Lender, replace such Lender by requiring such Lender to (and, to the extent permitted by law, such Lender shall) transfer pursuant to Clause 27 (Changes to the Lenders) all (and not part only) of its rights and obligations under this Agreement to a Lender or other bank, financial institution, trust, fund or other entity (a **Replacement Lender**) selected by the Borrower which confirms its willingness to assume and does assume all the obligations of the transferring Lender in accordance with Clause 27 (Changes to the Lenders) for a purchase price in cash payable at the time of transfer in an amount equal to the outstanding principal amount of such Lender's participation in the outstanding Loans and all accrued interest, Break Costs and other amounts payable in relation thereto under the Finance Documents.
- (b) The replacement of a Lender pursuant to this Clause 25.3 shall be subject to the following conditions:
- (i) the Borrower shall have no right to replace the Facility Agent or Security Agent;
 - (ii) neither the Facility Agent nor the Non-Consenting Lender shall have any obligation to the Borrower to find a Replacement Lender;
 - (iii) in the event of a replacement of a Non-Consenting Lender such replacement must take place no later than 45 days after the date on which that Lender is deemed a Non-Consenting Lender;
 - (iv) in no event shall the Lender replaced under this Clause 25.3 be required to pay or surrender to such Replacement Lender any of the fees received by such Lender pursuant to the Finance Documents; and
 - (v) the Lender shall only be obliged to transfer its rights and obligations pursuant to paragraph (a) above once it is satisfied that it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to that transfer.
- (c) A Lender shall perform the checks described in paragraph (b)(v) above as soon as reasonably practicable following delivery of a notice referred to in paragraph (a) above and shall notify the Facility Agent and the Borrower when it is satisfied that it has complied with those checks.
- (d) In the event that:

- (i) the Borrower or the Facility Agent (at the request of the Borrower) has requested the Lenders to give a consent in relation to, or to agree to a waiver or amendment of, any provisions of the Finance Documents;
- (ii) the consent, waiver or amendment in question requires the approval of all the Lenders; and
- (iii) Lenders whose Commitments aggregate more than 75 per cent. of the Commitments (or, if the Commitments have been reduced to zero, aggregated more than 75 per cent. of the Commitments prior to that reduction) have consented or agreed to such waiver or amendment,

then any Lender who does not and continues not to consent or agree to such waiver or amendment shall be deemed a “Non-Consenting Lender”.

25.4 Change of currency

If a change in any currency of a country occurs (including where there is more than one currency or currency unit recognised at the same time as the lawful currency of a country), the Finance Documents will be amended to the extent the Facility Agent (acting reasonably and on the instructions of the Majority Lenders and after consultation with the Borrower) determines is necessary to reflect the change.

25.5 Waivers and remedies cumulative

The rights of each Finance Party under the Finance Documents:

- (a) may be exercised as often as necessary;
- (b) are cumulative and not exclusive of its rights under the general law; and
- (c) may be waived only in writing and specifically.

Delay in exercising or non-exercise of any right is not a waiver of that right.

26. CHANGES TO THE OBLIGORS

26.1 Assignment and transfers by Obligors

No Obligor may assign any of its rights or transfer any of its rights or obligations under the Finance Documents without the prior consent of all the Lenders.

26.2 Additional Guarantors

- (a) Subject to compliance with the provisions of paragraphs (c) and (d) of Clause 15.6 (Know your customer requirements), the Borrower may request that any of its Subsidiaries become a Guarantor. If the Borrower so requests the provisions of paragraph (c) (i) to (iii) inclusive must be complied with.
- (b) A member of the Group shall become an Additional Guarantor if:
 - (i) the Borrower confirms that no Default is continuing or would occur as a result of that Subsidiary becoming an Additional Guarantor; and

- (ii) the Borrower and the proposed Additional Guarantor deliver to the Facility Agent and the Security Agent a duly completed and executed Accession Deed; and
 - (iii) the Facility Agent has received all of the documents and other evidence listed in Part 3 and Part 4 of Schedule 2 (Conditions Precedent) in relation to that Additional Guarantor, each in form and substance satisfactory to the Facility Agent.
- (c) The Facility Agent shall notify the Borrower and the Lenders promptly upon being satisfied that:
 - (i) it has received (in form and substance satisfactory to it) all the documents and other evidence listed in Part 3 and Part 4 of Schedule 2 (Conditions Precedent); and
 - (ii) It has received (in form and substance satisfactory to it) all the documents and other evidence listed in Schedule 4 (Conditions Subsequent to Utilisation or the Accession of an Additional Guarantor).

The Facility Agent may request the instruction of the Majority Lenders as to whether any documents or other evidence provided by the Borrower pursuant to this Clause 26 are satisfactory.
- (d) Other than to the extent that the Majority Lenders notify the Facility Agent in writing to the contrary before the Facility Agent gives the notification described in paragraph (c) above, the Lenders authorise (but do not require) the Facility Agent to give that notification. The Facility Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.

26.3 Repetition of Representations

Delivery of an Accession Deed constitutes confirmation by the relevant Subsidiary that the representations and warranties referred to in paragraph (b)(iv) of Clause 14.32 (Times for making representations) are true and correct in relation to it as at the date of delivery as if made by reference to the facts and circumstances then existing.

27. CHANGES TO THE LENDERS

27.1 Assignments and transfers by Lenders

- (a) A Lender (the Existing Lender) may, subject to the following provisions of this Clause 27.1, at any time assign or transfer (including by way of novation) any of its rights and obligations under this Agreement to another bank, financial institution or to a trust, fund or other entity which is regularly engaged or established for the purpose of making, purchasing or otherwise investing in loans, securities or other financial assets (the New Lender).
- (b) The prior written consent of the Borrower is required for an assignment or transfer unless that assignment or transfer is:
 - (i) to another Lender or an Affiliate of a Lender;
 - (ii) if the Existing Lender is a fund, to a fund which is a Related Fund of the Existing Lender; or
 - (iii) made at a time when an Event of Default is continuing.

The Borrower will be deemed to have given its consent five (5) Business Days after it has received a request in writing from the Existing Lender for such consent unless consent is expressly refused by the Borrower within that time. The Borrower may withhold its consent to an assignment or transfer to a “loan-to-own” fund, or any person known to buy distressed debt and/or non performing loans with intent to pursue active enforcement policies or to follow an investment strategy that is characterised by short-term position taking in relation to corporate, project or asset finance debt (or any Affiliate of such person).

- (c) A transfer of obligations will be effective only if the New Lender enters into the documentation required for it to accede as a party to the Intercreditor Agreement and either:
 - (i) the obligations are novated in accordance with the following provisions of this Clause 27; or
 - (ii) the New Lender confirms to the Facility Agent and the Borrower in form and substance reasonably satisfactory to the Facility Agent and the Borrower that it is bound by the terms of this Agreement.
- (d) On the transfer becoming effective in this manner, the relevant Lender will be released from its obligations under this Agreement to the extent that they are transferred to the New Lender.
- (e) Any reference in this Agreement to a Lender includes a New Lender but excludes a Lender if no amount is or may be owed to or by it under this Agreement.
- (f) Where the Borrower’s consent to a transfer or assignment is not required pursuant to paragraph (b) above, the Facility Agent shall notify the Borrower of the identity of the New Lender.
- (g) Any assignment or transfer pursuant to this Clause 27 by an Existing Lender must be of a minimum amount of US\$2,000,000, provided that at no time may there be more than ten (10) Lenders under this Agreement.

27.2 Procedure for transfer by way of novations

- (a) In this Clause 27.2:

Transfer Date means, for a Transfer Certificate, the later of:

 - (i) the proposed Transfer Date specified in that Transfer Certificate; and
 - (ii) the date on which the Facility Agent executes that Transfer Certificate.
- (b) A novation is effected if:
 - (i) the Existing Lender and the New Lender deliver to the Facility Agent a duly completed Transfer Certificate; and
 - (ii) the Facility Agent executes it.
- (c) On the Transfer Date:

- (i) the New Lender will assume the rights and obligations of the Existing Lender expressed to be the subject of the novation in the Transfer Certificate in substitution for the Lender; and
 - (ii) the Existing Lender will be released from those obligations and cease to have those rights.
- (d) Each Party (other than the Existing Lender and the New Lender) irrevocably authorises the Facility Agent to execute any duly completed Transfer Certificate on its behalf.
- (e) The Facility Agent shall only be obliged to execute a Transfer Certificate delivered to it by the Existing Lender and the New Lender once it is satisfied it has complied with all necessary “know your customer” or similar checks under all applicable laws and regulations in relation to the assignment to such New Lender.
- (f) The New Lender shall, on the date upon which an assignment or transfer takes effect, pay to the Facility Agent (for its own account) a fee of three thousand Dollars (\$3,000).

27.3 Limitation of responsibility of Existing Lender

- (a) Unless expressly agreed to the contrary, an Existing Lender is not responsible to a New Lender for:
- (i) the legality, validity, effectiveness, completeness, accuracy, adequacy or enforceability of any Finance Document or any other document;
 - (ii) the financial condition of any Obligor;
 - (iii) the performance and observance by any Obligor of its obligations under the Finance Documents or any other documents; or
 - (iv) the accuracy of any statement or information (whether written or oral) made in or supplied in connection with any Finance Document,
- and any representations or warranties implied by law are excluded.
- (b) Each New Lender confirms to the Existing Lender that it:
- (i) has made, and will continue to make, its own independent appraisal of all risks arising under or in connection with the Finance Documents (including the financial condition and affairs of each Obligor and its related entities and the nature and extent of any recourse against any Party or its assets) in connection with its participation in this Agreement; and
 - (ii) has not relied exclusively on any information supplied to it by the Existing Lender in connection with any Finance Document.
- (c) Nothing in any Finance Document requires an Existing Lender to:
- (i) accept a re-transfer from a New Lender of any of the rights and obligations assigned or transferred under this Clause 27; or
 - (ii) support any losses incurred by the New Lender by reason of the non-performance by any Obligor of its obligations under any Finance Document or otherwise.

27.4 Costs resulting from change of Lender or Facility Office

If:

- (a) a Lender assigns or transfers any of its rights and obligations under the Finance Documents or changes its Facility Office; and
- (b) as a result of circumstances existing at the date on which the assignment, transfer or change occurs, an Obligor would be obliged to pay a Tax Payment, an Increased Cost or any payment under Clause 10.6 (Stamp taxes),

then, (i) if it changes its Facility Office, the relevant Lender (directly or through the Facility Agent) shall inform the Borrower of such change of Facility Office and (ii) unless the assignment, transfer or change is made by a Lender to mitigate any circumstances giving rise to a Tax Payment, Increased Cost or a right to be prepaid and/or cancelled by reason of illegality or is after the occurrence of a Default which is continuing, the relevant Obligor need only pay that Tax Payment or Increased Cost or payment under Clause 10.6 (Stamp taxes) to the same extent that it would have been obliged to if no assignment, transfer or change had occurred.

27.5 Pro rata interest settlement

- (a) The Facility Agent will distribute interest payments amongst the Lenders on a “pro rata basis” to Existing Lenders and New Lenders unless it notifies the Lenders otherwise. In respect of any transfer pursuant to this Clause 27, the Transfer Date of which, in each case, is after the date of such notification and is not on the last day of an Interest Period:
 - (i) any interest or fees in respect of the relevant participation which are expressed to accrue by reference to the lapse of time shall continue to accrue in favour of the Existing Lender up to but excluding the Transfer Date (“Accrued Amounts”) and shall become due and payable to the Existing Lender (without further interest accruing on them) on the last day of the current Interest Period (or, if the Interest Period is longer than six Months, on the next of the dates which falls at six Monthly intervals after the first day of that Interest Period); and
 - (ii) the rights assigned or transferred by the Existing Lender will not include the right to the Accrued Amounts, so that, for the avoidance of doubt:
 - (A) when the Accrued Amounts become payable, those Accrued Amounts will be payable to the Existing Lender; and
 - (B) the amount payable to the New Lender on that date will be the amount which would, but for the application of this Clause 27.5, have been payable to it on that date, but after deduction of the Accrued Amounts.
- (b) In this Clause 27.5 references to “Interest Period” shall be construed to include a reference to any other period for accrual of fees.
- (c) An Existing Lender which retains the right to the Accrued Amounts pursuant to this Clause 27.5 but which does not have a Commitment shall be deemed not to be a Lender for the purposes of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve any request for a consent, waiver, amendment or other vote of Lenders under the Finance Documents.

28. RESTRICTION ON DEBT PURCHASE TRANSACTIONS

28.1 Disenfranchisement on Debt Purchase Transactions entered into by Sponsor Affiliates

- (a) For so long as a Sponsor Affiliate:
- (i) beneficially owns a Commitment; or
 - (ii) has entered into a sub-participation agreement relating to a Commitment or other agreement or arrangement having a substantially similar economic effect and such agreement or arrangement has not been terminated,
- in ascertaining,
- (A) the Majority Lenders; or
 - (B) whether:
 - I. any given percentage (including, for the avoidance of doubt, unanimity) of the Commitments; or
 - II. the agreement of any specified group of Lenders,
- has been obtained to approve any request for a consent, waiver, amendment or other vote under the Finance Documents such Commitment shall be deemed to be zero and such Sponsor Affiliate or the person with whom it has entered into such sub participation, other agreement or arrangement shall be deemed not to be a Lender for the purposes of paragraphs (A) and (B) above (unless in the case of a person not being a Sponsor Affiliate it is a Lender by virtue otherwise than by beneficially owning the relevant Commitment).
- (b) Each Lender shall, unless such Debt Purchase Transaction is an assignment or transfer, promptly notify the Facility Agent in writing if it knowingly enters into a Debt Purchase Transaction with a Sponsor Affiliate (a **Notifiable Debt Purchase Transaction**), such notification to be substantially in the form set out in Part 1 of Schedule 14 (Forms of Notifiable Debt Purchase Transaction Notice).
- (c) A Lender shall promptly notify the Facility Agent if a Notifiable Debt Purchase Transaction to which it is a party:
- (i) is terminated; or
 - (ii) ceases to be with a Sponsor Affiliate,
- such notification to be substantially in the form set out in Part 2 of Schedule 14 (Forms of Notifiable Debt Purchase Transaction Notice).
- (d) Each Sponsor Affiliate that is a Lender agrees that:
- (i) in relation to any meeting or conference call to which all the Lenders are invited to attend or participate, it shall not attend or participate in the same if so requested by the Facility Agent or, unless the Facility Agent otherwise agrees, be entitled to receive the agenda or any minutes of the same; and
 - (ii) in its capacity as Lender, unless the Facility Agent otherwise agrees, it shall not be entitled to receive any report or other document prepared at the behest of, or on the instructions of, the Facility Agent or one or more of the Lenders.

29. DISCLOSURE OF INFORMATION

- (a) Any Finance Party may disclose, on a need to know basis, to any of its Affiliates and Related Funds and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives such Confidential Information as that Finance Party shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;
- (b) Any Finance Party and any of that Finance Party's Affiliates may disclose, on a need to know basis or as required pursuant to subparagraph (vi) and (vii) below, to any person:
- (i) to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Finance Documents or which succeeds (or which may potentially succeed) it as Agent, and, in each case, to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
 - (ii) with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, one or more Finance Documents and/or one or more Obligors and to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
 - (iii) appointed by any Finance Party or any of that Finance Party's Affiliates or by a person to whom paragraph (b)(i) or (ii) above applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf;
 - (iv) appointed by any Finance Party or any of that Finance Party's Affiliates or by a person to whom paragraph (b)(ii) above applies to act as a verification agent in respect of any transaction referred to in paragraph b(ii) above;
 - (v) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in paragraph (b)(i) or (b)(ii) above;
 - (vi) to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;
 - (vii) to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes;

- (viii) who is a Party; or
- (ix) with the prior written consent of the Company;

in each case, such Confidential Information as that Finance Party shall consider appropriate if:

- (A) in relation to paragraphs (b)(i), (b)(ii),b(iii) and b(iv) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking except that there shall be no requirement for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;
 - (B) in relation to paragraph (b)(v) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is otherwise bound by requirements of confidentiality in relation to the Confidential Information they receive and is informed that some or all of such Confidential Information may be price-sensitive information;
 - (C) in relation to paragraphs (b)(vi) and (b)(vii) above, the person to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of that Finance Party, it is not practicable so to do in the circumstances;
- (c) to any person appointed by that Finance Party or by a person to whom paragraph (b)(i) or (b)(ii) above applies to provide administration or settlement services in respect of one or more of the Finance Documents including without limitation, in relation to the trading of participations in respect of the Finance Documents, such Confidential Information as may be required to be disclosed to enable such service provider to provide any of the services referred to in this paragraph (c) if the service provider to whom the Confidential Information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Borrower and the relevant Finance Party; and
 - (d) to any rating agency (including its professional advisers) such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Finance Documents and/or the Obligors.

30. SET-OFF

A Finance Party may set off any matured obligation owed to it by an Obligor under the Finance Documents against any obligation (whether or not matured) owed by that Finance Party to that Obligor, regardless of the place of payment, booking branch or currency of either obligation, provided always that if a Finance Party intends to effect a set-off at a time when there is no continuing Event of Default, it shall give the Borrower notice of its intention so to do. If the obligations are in different currencies, that Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

31. PRO RATA SHARING

31.1 Redistribution

If any amount owing by an Obligor under this Agreement to a Lender (the recovering Lender) is discharged by payment, set-off or any other manner other than through the Facility Agent under this Agreement (a recovery), then:

- (a) the recovering Lender must, within three Business Days, supply details of the recovery to the Facility Agent;
- (b) the Facility Agent must calculate whether the recovery is in excess of the amount which the recovering Lender would have received if the recovery had been received by the Facility Agent under this Agreement; and
- (c) the recovering Lender must pay to the Facility Agent an amount equal to such excess (the redistribution).

31.2 Effect of redistribution

- (a) The Facility Agent must treat a redistribution as if it were a payment by the relevant Obligor under this Agreement and distribute it among the Lenders, other than the recovering Lender, accordingly.
- (b) When the Facility Agent makes a distribution under paragraph (a) above, the recovering Lender will be subrogated to the rights of the Finance Parties which have shared in that redistribution.
- (c) If and to the extent that the recovering Lender is not able to rely on any rights of subrogation under paragraph (b) above, the relevant Obligor will owe the recovering Lender a debt which is equal to the redistribution, immediately payable and of the type originally discharged.
- (d) If:
 - (i) a recovering Lender must subsequently return a recovery, or an amount measured by reference to a recovery, to any Obligor; and
 - (ii) the recovering Lender has paid a redistribution in relation to that recovery,

each Finance Party must reimburse the recovering Lender all or the appropriate portion of the redistribution paid to that Finance Party, together with interest for the period while it held the re- distribution. In this event, the subrogation in paragraph (b) above will operate in reverse to the extent of the reimbursement.

31.3 Exceptions

Notwithstanding any other term of this Clause 31, a recovering Lender need not pay a redistribution to the extent that:

- (a) it would not, after the payment, have a valid claim against the relevant Obligor in the amount of the redistribution; or

- (b) it would be sharing with another Finance Party any amount which the recovering Lender has received or recovered as a result of legal or arbitration proceedings, where:
 - (i) the recovering Lender notified the Facility Agent of those proceedings; and
 - (ii) the other Finance Party had an opportunity to participate in those proceedings but did not do so or did not take separate legal or arbitration proceedings as soon as reasonably practicable after receiving notice of them.

32. SEVERABILITY

If a term of a Finance Document is or becomes illegal, invalid or unenforceable in any jurisdiction, that shall not affect:

- (a) the legality, validity or enforceability in that jurisdiction of any other term of the Finance Documents; or
- (b) the legality, validity or enforceability in other jurisdictions of that or any other term of the Finance Documents.

33. COUNTERPARTS

Each Finance Document may be executed in any number of counterparts and by facsimile provided that original signed copies are provided within a reasonable period of time thereafter. This has the same effect as if the signatures on the counterparts were on a single copy of the Finance Document.

34. NOTICES

34.1 In writing

- (a) Any communication in connection with a Finance Document must be in writing and, unless otherwise stated, may be given in person, by post, fax, e-mail or by any other electronic communication approved by the Facility Agent.
- (b) For the purpose of the Finance Documents, an electronic communication will be treated as being in writing.
- (c) Unless it is agreed to the contrary, any consent or agreement required under a Finance Document must be given in writing.

34.2 Contact details

- (a) Except as provided below, the contact details of each Party for all communications in connection with the Finance Documents are those notified by that Party for this purpose to the Facility Agent on or before the date it becomes a Party. The Facility Agent shall distribute the details which it holds on request.
- (b) The contact details of the Borrower for this purpose are:

Address: Global Ship Lease, Inc.
 c/o Global Ship Lease Services Limited
 Portland House

Stag Place

London

SW1E 5RS

Fax number: +44 (0) 20 7869 8119

Email: notices@globalshiplease.com

Attention: CFO, CEO and CAO

(c) The contact details of the Facility Agent for this purpose are:

Address: Citibank Europe plc, UK Branch
25 Canada Square
Canary Wharf
London
E14 5LB

Fax number: +44 (0) 20 7492 3980

Email address: (to be provided)

Attention: European Loans Agency, EMEA

(d) The contact details of the Arranger, and the Original Lender for this purpose are:

Address: Citibank, N.A., London Branch
Citigroup Centre
25 Canada Square
London
E14 5LB

email: shreyas.chipalkatty@citi.com
alessandro.boraga@citi.com
marlene.amiot@citi.com

Attention: Shreyas Chipalkatty
Alessandro Boraga
Marlene Amiot

(e) The contact details of the Bookrunner for this purpose is:

Address: Citibank, N.A., London Branch
Citigroup Centre
25 Canada Square
London
E14 5LB

email: shreyas.chipalkatty@citi.com
alessandro.boraga@citi.com
marlene.amiot@citi.com

Attention: Shreyas Chipalkatty
Alessandro Boraga
Marlene Amiot

(f) The contact details for the Security Agent for this purpose are:

Address: Citibank, N.A., London Branch
Citigroup Centre
25 Canada Square
London
E14 5LB

Fax Number: +44 207 500 5877

Attention: Agency & Trust – The Directors

- (g) A Party may change its contact details by giving five Business Days' notice to the Facility Agent or (in the case of the Facility Agent) to the other Parties.
- (h) Where a Party nominates a particular department or officer to receive a communication, a communication will not be effective if it fails to specify that department or officer.
- (i) Any communication for an Obligor shall be sent to the Borrower with the contact details set out in paragraph (b) of Clause 34.2 (Contact details) (or such substitute contact details as the Borrower may notify the Facility Agent by not less than five Business Days' notice) and service on the Borrower in accordance with Clause 34.3 (Effectiveness) shall be deemed good service on the relevant Obligor.

34.3 Effectiveness

- (a) Except as provided below, any communication in connection with a Finance Document will be deemed to be given as follows:
- (i) if delivered in person, at the time of delivery;
 - (ii) if posted, five (5) days after being deposited in the post, postage prepaid, in a correctly addressed envelope;
 - (iii) if by fax, when received in legible form; and
 - (iv) if by e-mail or any other electronic communication, when received in legible form.
- (b) A communication given under paragraph (a) above but received on a non-working day or after business hours in the place of receipt will only be deemed to be given on the next working day in that place.
- (c) A communication or document to be made or delivered to the Facility Agent will be effective only when received by the Facility Agent and then only if it is expressly marked for the attention of the department or officer identified with the Facility Agent's signature below (or any substitute department or officer as the Facility Agent shall specify for this purpose on giving the other Parties at least five Business Days' notice in writing).

34.4 **Obligors**

All communications under the Finance Documents to or from an Obligor must be sent through the Facility Agent or with a copy to the Facility Agent.

34.5 **Communication when Agent is Impaired Agent**

If the Facility Agent is an Impaired Agent the Parties may, instead of communicating with each other through the Facility Agent, communicate with each other directly and (while the Facility Agent is an Impaired Agent) all the provisions of the Finance Documents which require communications to be made or notices to be given to or by the Facility Agent shall be varied so that communications may be made and notices given to or by the relevant Parties directly. This provision shall not operate after a replacement Facility Agent has been appointed.

34.6 **Entire Agreement**

This Agreement and the other Finance Documents entered into pursuant to this Agreement contain the whole agreement between the parties relating to the transactions contemplated by this Agreement and supersede all previous agreements between the parties relating to such transactions.

35. **LANGUAGE**

- (a) Any notice given in connection with a Finance Document must be in English.
- (b) Any other document provided in connection with a Finance Document must be:
 - (i) in English; or
 - (ii) (unless the Facility Agent otherwise agrees) accompanied by a certified English translation. In this case, the English translation prevails unless the document is a statutory or other official document.

36. **GOVERNING LAW**

- (a) This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
- (b) Without prejudice to paragraph (a) above, Schedule 13 (Notes Restrictive Covenants) of this Agreement and any non contractual obligations arising out of or in connection with it will be interpreted in accordance with the laws of the State of New York.

37. **ENFORCEMENT**

37.1 **Jurisdiction of English courts**

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or any non-contractual obligation arising out of or in connection with this Agreement) (a **Dispute**).
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) This Clause 37.1 is for the benefit of the Finance Parties and Secured Parties only. As a result, no Finance Party or Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Finance Parties and Secured Parties may take concurrent proceedings in any number of jurisdictions.

37.2 Service of process

- (a) Without prejudice to any other mode of service allowed under any relevant law, each Obligor (other than an Obligor incorporated in England and Wales):
 - (i) irrevocably appoints GSLS as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document (and GSLS by its execution of this Agreement, accepts that appointment); and
 - (ii) agrees that failure by an agent for service of process to notify the relevant Obligor of the process will not invalidate the proceedings concerned.
- (b) If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Borrower (on behalf of all the Obligors) must immediately (and in any event within 3 days of such event taking place) appoint another agent on terms acceptable to the Facility Agent. Failing this, the Facility Agent may appoint another agent for this purpose.
- (c) GSLS expressly agrees and consents to the provisions of this Clause 37 and Clause 36 (Governing Law).

37.3 Waiver of immunity

Each Obligor irrevocably and unconditionally:

- (a) agrees not to claim any immunity from proceedings brought by a Finance Party against it in relation to a Finance Document and to ensure that no such claim is made on its behalf;
- (b) consents generally to the giving of any relief or the issue of any process in connection with those proceedings; and
- (c) waives all rights of immunity in respect of it or its assets.

38. CONTRACTUAL RECOGNITION OF BAIL-IN

Notwithstanding any other term of any Finance Document or any other agreement, arrangement or understanding between the Parties, each Party acknowledges and accepts that any liability of any Party to any other Party under or in connection with the Finance Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

- (a) any Bail-In Action in relation to any such liability, including (without limitation):
 - (i) a reduction, in full or in part, in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;
 - (ii) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and
 - (iii) a cancellation of any such liability; and
- (b) a variation of any term of any Finance Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.

39. QUIET ENJOYMENT

If so requested by the Borrower on not less than five (5) days' notice, in relation to any new charter or extension to an Approved Charter or in relation to an existing charter for any Additional Vessel, the Finance Parties authorise and instruct the Security Agent and the Security Agent will, if so instructed, enter into a quiet enjoyment letter in favour of the relevant charterer on the following terms:

- (a) the Borrower will only request that the Security Agent enter into a quiet enjoyment letter in relation to any new charter or extension to an Approved Charter, or in relation to an existing Charter for any Additional Vessel, if specifically requested to do so by the charterer as a condition to entry into the relevant charter or charter extension;
- (b) if required by the charterer to enter into a quiet enjoyment letter, the Borrower will use its reasonable commercial efforts to agree a quiet enjoyment letter in the form attached to the Intercreditor Deed as Schedule 6, Part 2, or if it cannot be agreed in its entirety, to agree a form of quiet enjoyment letter containing as many of the elements of such form as possible; and
- (c) if the Borrower is unable, by using its reasonable commercial efforts, to agree a quiet enjoyment agreement in the form attached to the Intercreditor Deed as Schedule 6, Part 2, the Security Agent will, upon the Borrower's request, enter into a quiet enjoyment letter in the form attached to the Intercreditor Deed as Schedule 6, Part 1, or in such other form that an officer of the Borrower confirms in writing to the Security Agent puts the Finance Parties in no worse position than the form attached to the Intercreditor Deed as Schedule 6, Part 1.

THIS AGREEMENT has been entered into on the date stated at the beginning of this Agreement.

SCHEDULE 1
ORIGINAL PARTIES
PART 1
ORIGINAL OBLIGORS

<u>Name of Original Borrower</u>	<u>Jurisdiction of Incorporation</u>	<u>Registered Number</u>
Global Ship Lease, Inc.	Marshall Islands	28891

<u>Name of Original Guarantor</u>	<u>Jurisdiction of Incorporation</u>	<u>Registered Number</u>
GSL Alcazar Inc.	Marshall Islands	26711
Global Ship Lease Services Limited	England	06285694
Global Ship Lease 3 Limited	Cyprus	211552
Global Ship Lease 4 Limited	Cyprus	211532
Global Ship Lease 5 Limited	Cyprus	211540
Global Ship Lease 6 Limited	Cyprus	211526
Global Ship Lease 7 Limited	Cyprus	211528
Global Ship Lease 8 Limited	Cyprus	211539
Global Ship Lease 9 Limited	Cyprus	211530
Global Ship Lease 10 Limited	Cyprus	211534
Global Ship Lease 12 Limited	Cyprus	211709
Global Ship Lease 13 Limited	Cyprus	212727
Global Ship Lease 14 Limited	Cyprus	212734
Global Ship Lease 15 Limited	Cyprus	212735
Global Ship Lease 16 Limited	Cyprus	212729
Global Ship Lease 20 Limited	Hong Kong	2146620
Global Ship Lease 21 Limited	Hong Kong	2178012
Global Ship Lease 22 Limited	Hong Kong	2222134
Global Ship Lease 23 Limited	Hong Kong	2280807

PART 2
ORIGINAL LENDER

As at the date of this Agreement, the Lender and its Commitment are as follows:

<u>Name of Original Lender</u>	<u>Commitments</u>
CITIBANK, N.A., LONDON BRANCH	US\$54,800,000

SCHEDULE 2
CONDITIONS PRECEDENT

PART 1

CONDITIONS PRECEDENT TO SUBMISSION OF REQUEST

1. Obligors

- (a) A copy of the Constitutional Documents of each Original Obligor.
- (b) A copy of a resolution of the board or, if applicable, a committee of the board of directors of each Original Obligor:
 - (i) approving the terms of, and the transactions contemplated by, the Transaction Documents to which it is a party and resolving that it execute, deliver and perform the Transaction Documents to which it is a party;
 - (ii) authorising a specified person or persons to execute the Finance Documents to which it is a party on its behalf; and
 - (iii) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, the Request) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party.
- (c) If applicable, a copy of a resolution of the board of directors of the relevant company, establishing the committee referred to in paragraph (b) above.
- (d) A specimen of the signature of each person authorised by the resolution referred to in paragraph (b) above in relation to the Finance Documents and related documents.
- (e) A certificate of the Borrower (signed by an authorised officer (being either a CEO, CFO, COO, CTO or the Company Secretary, as applicable)) confirming that borrowing or guaranteeing or securing, as appropriate, the Commitments would not cause any borrowing, guarantee, security or similar limit binding on any Original Obligor to be exceeded.
- (f) A certificate of an authorised signatory of the Borrower or other relevant Original Obligor certifying that each copy document relating to it specified in this Part 1 of Schedule 2 is correct, complete and in full force and effect and has not been amended or superseded as at a date no earlier than the date of this Agreement.
- (g) In respect of an Obligor incorporated in Cyprus:
 - (i) a certificate of good standing issued by the Registrar of Companies in Cyprus (dated no earlier than five days prior to the date of this Agreement);
 - (ii) a certificate of no winding up issued by the Registrar of Companies in Cyprus (dated no earlier than five days prior to the date of this Agreement);
 - (iii) a certificate of share capital issued by the Registrar of Companies in Cyprus;
 - (iv) its memorandum and articles of association in Greek and English language; and

- (v) An original certificate of incumbency from the secretary of that Obligor dated one day before the date of execution of the Finance Documents in form and substance satisfactory to the Lenders' Cypriot counsel.
- (h) In respect of an Obligor incorporated in the Republic of the Marshall Islands, a certificate of good standing issued by the deputy registrar of corporations and dated no more than 4 days prior to the date of this Agreement.
- (i) In respect of an Obligor incorporated in Hong Kong:
 - (A) the current business registration certificate; and
 - (B) a copy of a resolution signed by all of the holders of the issued shares in each Obligor approving the terms of, and the transactions contemplated by, the Transaction Documents to which it is a party and acknowledging the corporate benefit afforded to it by entering into and performing the transactions contemplated by the Transaction Documents.

Transaction Documents

- (j) A certified copy of all other resolutions, consents, licences, exemptions, filings, corporate, official or otherwise which the Facility Agent may reasonably require in connection with this Agreement.
- (k) A duly executed and dated copy of:
 - (i) this Agreement;
 - (ii) the Intercreditor Deed;
 - (iii) each Fee Letter; and
 - (iv) the Bond Engagement Letter.

CONDITIONS PRECEDENT TO UTILISATION

1. Finance Documents and Related Contracts

- (a) A copy of each of the Senior Secured Notes Documents.
- (b) At least two originals of each of the Original Security Documents in each case executed by the relevant Original Obligor or Original Obligors.
- (c) A copy of each of the Related Contracts in relation to each Identified Vessel.
- (d) Duly executed originals of all notices of assignment required to be served under each Original Security Document referred to above and the Obligors shall use all reasonable efforts to obtain duly executed originals of the acknowledgements thereof (or, where it is not possible to provide originals of the same, faxed copies with such originals to follow as soon as practicable after the date of this Agreement), duly executed by each relevant counterparty.
- (e) A copy of all share certificates, transfers and stock transfer forms or equivalent duly executed by the relevant Obligor in blank in relation to the assets subject to or expressed to be subject to the Transaction Security and other documents of title to be provided, and such other documents required to be executed and delivered, under the Security Documents.

2. Other documents and evidence

- (a) A copy of the bill of sale in respect of each Identified Vessel.
- (b) An appraised valuation in respect of each Identified Vessel as at 19 September 2017 as evidenced from the valuation certificates from Maersk Broker A/S.
- (c) The Group Structure Chart.
- (d) Confirmation from the Lenders that they have satisfied all of their “know your customer” requirements.
- (e) Evidence that the Senior Secured Notes have been issued (or evidence satisfactory to the Facility Agent that the Senior Secured Notes will be issued on the same day as utilisation of the Loan takes place) in an aggregate principal amount pursuant to the Note Purchase Agreement giving rise to gross proceeds of at least US\$360,000,000 and that those net proceeds have been made available to the Borrower and have been applied, amongst other things, in repayment of all amounts outstanding under or in connection with the Existing Facility Agreement.
- (f) The Original Financial Statements.
- (g) Evidence satisfactory to the Security Agent (including a copy of each Existing Security Release Document) that the existing Financial Indebtedness of the Borrower and its Subsidiaries under and in connection with (i) the Existing 2019 Notes and (ii) the Existing Facilities, together in each case with all security granted in connection therewith, have been discharged and released in full or will, upon application of the proceeds of the utilisation of the Loan to discharge that Financial Indebtedness, be released and discharged in full.

3. Legal opinions

- (a) A legal opinion of Allen & Overy LLP, English legal advisors to the Lenders, substantially in the form distributed to the Original Lender prior to the signing of this Agreement.

- (b) A legal opinion of Seward & Kissel LLP, Marshall Islands legal advisors to the Lenders, substantially in the form distributed to the Original Lender prior to the signing of this Agreement.
- (c) A legal opinion of Chrysses Demetriades, Cypriot legal advisors to the Lenders, substantially in the form distributed to the Original Lender prior to the signing of this Agreement.
- (d) A legal opinion of McKinney Bancroft & Hughes, Bahamian legal advisors to the Lenders, substantially in the form distributed to the Original Lender prior to the signing of this Agreement.
- (e) A legal opinion of Patton, Moreno & Asvat, Panamanian legal advisors to the Obligors, substantially in the form distributed to the Original Lender prior to the signing of this Agreement.
- (f) A legal opinion of Allen & Overy LLP, Dutch legal advisers to the Lenders, substantially in the form distributed to the Original Lender prior to the signing of this Agreement.
- (g) A legal opinion of Allen & Overy, Hong Kong law advisors to the Lenders, substantially in the form distributed to the Original Lender prior to the signing of this Agreement.

4. Other Requirements

- (a) Each certified copy document must be certified by a director, officer or duly authorised attorney of the Obligor as being true and complete as at a date no earlier than the date falling three Business Days prior to the date of this Agreement.
- (b) The fees payable under this Agreement and the Fee Letters, in each case on or prior to the Utilisation Date have been received in full by the relevant party.

PART 3

ADDITIONAL VESSEL CONDITIONS PRECEDENT

On the Delivery Date of each Additional Vessel or, as the case may be, the date of designation in accordance with Clause 3 (Conditions Precedent), the Facility Agent shall require the following documentation:

1. Guarantor

- (a) A certified copy of the Constitutional Documents of the Guarantor or, if previously provided to the Facility Agent, a certificate of the Guarantor certifying that such documents remain in full force and effect and have not been amended since the date of such provision.
- (b) A certified copy of a resolution of the board of directors of the Guarantor:
 - (i) approving the terms of, and the transactions contemplated by, each Related Contract relating to the Additional Vessel to which the Guarantor is a party and resolving that it executes each such Related Contract, then to be executed;
 - (ii) authorising a specified person or persons to execute each Related Contract on its behalf to which it is a party, then to be executed; and
 - (iii) authorising a specified person or persons, on its behalf, to sign and/or despatch all other documents and notices to be signed and/or despatched by it under or in connection with and each Related Contract to which it is a party, then to be executed.
- (c) A specimen of the signature of each person authorised by the resolution referred to in paragraph (b) above.
- (d) A certified copy of all other resolutions, consents, licences, exemptions and filings, corporate, official or otherwise which the Lender may reasonably require in connection with the acquisition of the Additional Vessel or any of the Related Contracts.

2. Finance Documents and Related Contracts

- (a) A duly executed original of a General Assignment relating to the Additional Vessel.
- (b) a duly executed copy of the notice of assignment of the Charter relating to the Additional Vessel to the charterer and, to the extent required under this Agreement and the General Assignment, an acknowledgement of the assignment from that charterer.
- (c) A duly executed original of the Mortgage relating to the Additional Vessel.
- (d) A duly executed original document granting a Security Interest in favour of the Security Agent, over the Earning Account with respect to the Additional Vessel, together with all notices and acknowledgements in connection therewith.
- (e) To the extent not previously delivered to the Security Agent, a duly executed original of the pledge of the shares relating to the Additional Guarantor in relation to each relevant Additional Vessel
- (f) A copy of all share certificates, transfers and stock transfer forms or equivalent duly executed by the relevant Guarantor in blank in relation to the assets subject to or expressed to be subject to the Transaction Security and other documents of title to be provided under the Security Documents relating to the Additional Vessel.

- (g) A certified copy of each relevant Ship Management Agreement, duly executed.
- (h) A certified copy of the relevant Charter Guarantee (if any), duly executed.
- (i) A certified copy of the relevant Acceptable Charter, duly executed.
- (j) A certified copy of the documentation pursuant to which the Additional Vessel has been sold to the Borrower.
- (k) Duly executed originals of all notices of assignment (other than those referred to in (b) and (c) above) required to be served under each Security Document referred to above.

3. Other documents

A copy of any other authorisation or other document, opinion or assurance which the Facility Agent reasonably considers to be necessary in connection with the entry into and performance of, and the transactions contemplated by, any Related Contract or for the validity and enforceability of any Related Contract.

4. The Vessel to be delivered

- (a) In respect of the Additional Vessel, a current certificate from Bureau Veritas, Lloyds Register of Shipping, or any other member of the International Association of Classification Societies or other classification society of recognized international standing acceptable to the Facility Agent, which shall be free from any overdue material recommendations.
- (b) A copy of the bill of sale and the protocol of delivery and acceptance in respect of the Additional Vessel.

5. Insurance

- (a) A copy of all current insurance policies in respect of Obligatory Insurances, in respect of the Additional Vessel or sufficient information so as to enable Marsh, London to prepare the insurance report referred to in paragraph (d) below.
- (b) A duly executed and, where necessary, notarised notice of assignment of the Obligatory Insurances in respect of the Additional Vessel duly executed by the Borrower substantially in the form provided for in the General Assignment.
- (c) Fax confirmation (or an e-mail confirmation to such e-mail address as may be advised by the Facility Agent) from each broker and club concerned with the Obligatory Insurances of the Additional Vessel that:
 - (i) the relevant cover is in effect;
 - (ii) they will accept notice of assignment of the Obligatory Insurances in favour of the Facility Agent;
 - (iii) they will issue a letter of undertaking addressed to the Security Agent in the form set out in schedule 2 to the General Assignment in the case of London brokers, in their standard form in the case of London clubs, substantially in the form set out in schedule 2 or schedule 3 of the General Assignment (as appropriate) in any other case or such other form as is permitted under the General Assignment relating to the Additional Vessel;

- (iv) they will accept endorsement of a loss payable clause on the policies in the form provided for in the General Assignment (in the case of brokers and insurers other than clubs) or will note the interest of the Security Agent in the entry for the Additional Vessel by way of a loss payable clause in their current standard form (in the case of clubs); and
 - (v) they are not aware of any mortgage, charge, assignment or other encumbrance affecting the Obligatory Insurances with which they are concerned (other than any previously disclosed by the Borrower to the Facility Agent in writing).
- (d) Confirmation from the Facility Agent (acting on behalf of the Majority Lenders) of its satisfaction with a final insurance report with regard to the Additional Vessel as prepared by an insurance broker satisfactory to the Facility Agent.
 - (e) Confirmation from the Facility Agent of its receipt of a Valuation of the Additional Vessel.

6. Other Requirements

Evidence satisfactory to the Facility Agent (acting on behalf of the Majority Lenders) that the Borrower continues to be listed on the NYSE or NASDAQ.

7. Legal opinions

- (a) A legal opinion of English legal advisors to the Lenders, addressed to the Facility Agent, the Security Agent and the Lenders.
- (b) A legal opinion of the legal advisors to the Lenders in the jurisdiction of the Additional Guarantor and (if applicable) the Charter Guarantor, addressed to the Facility Agent, the Security Agent and the Lenders.
- (c) A legal opinion of the legal advisors to the Lenders in the jurisdiction of the relevant Approved Flag State, addressed to the Facility Agent, the Security Agent and the Lenders.
- (d) A legal opinion of the legal advisors to the Lenders in the appropriate jurisdiction as to the enforceability of the Charter entered into in respect of that Additional Vessel, addressed to the Facility Agent, the Security Agent and the Lenders.
- (e) A legal opinion of the legal advisors to the Lenders in the appropriate jurisdiction as to the enforceability of the relevant Earnings Account Security Agreement and such other matters relating to the Security Agent in connection with the Earnings Account Security Agreement as the Security Agent may reasonably request, addressed to the Facility Agent, the Security Agent and the Lenders.
- (f) A legal opinion of the legal advisors to the Lenders in the appropriate jurisdiction as to the enforceability of the relevant pledge and/or charge of shares in the Additional Guarantor and such other matters relating to the Security Agent in connection with the pledge of shares as the Security Agent may reasonably request, addressed to the Facility Agent, the Security Agent and the Lenders.

8. Other Requirements

Each certified copy document must be certified by a director, officer or duly authorised attorney of the Borrower as being true and complete as at a date no earlier than the date falling three Business Days prior to the Delivery Date of the Additional Vessel.

ADDITIONAL GUARANTOR CONDITIONS PRECEDENT

1. An Accession Deed executed by the Additional Guarantor and the Borrower.
2. A copy of the Constitutional Documents of the Additional Guarantor.
3. A copy of a resolution of the board or, if applicable, a committee of the board of directors of the Additional Guarantor:
 - (a) approving the terms of, and the transactions contemplated by, the Accession Deed and the Finance Documents and resolving that it execute, deliver and perform the Accession Deed and any other Finance Document to which it is party;
 - (b) authorising a specified person or persons to execute the Accession Deed and other Finance Documents on its behalf;
 - (c) authorising a specified person or persons, on its behalf, to sign and/or despatch all other documents and notices to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party; and
 - (d) authorising the Borrower to act as its agent in connection with the Finance Documents
4. If applicable, a copy of a resolution of the board of directors of the Additional Guarantor, establishing the committee referred to in paragraph 3 above.
5. A specimen of the signature of each person authorised by the resolution referred to in paragraph 3 above.
6. A copy of a resolution signed by all the holders of the issued shares of the Additional Guarantor, approving the terms of, and the transactions contemplated by, the Finance Documents to which the Additional Guarantor is a party.
7. A certificate of the Additional Guarantor (signed by a director) confirming that borrowing or guaranteeing or securing, as appropriate, the Commitments would not cause any borrowing, guarantee, security or similar limit binding on it to be exceeded.
8. A certificate of an authorised signatory of the Additional Guarantor certifying that each copy document listed in this Part 3 of Schedule 2 is correct, complete and in full force and effect and has not been amended or superseded as at a date no earlier than the date of the Accession Deed.
9. A copy of any other authorisation or other document, opinion or assurance which the Facility Agent considers to be necessary in connection with the entry into and performance of the transactions contemplated by the Accession Deed or for the validity and enforceability of any Finance Document.
10. In respect of an Additional Guarantor incorporated in Cyprus:
 - (a) a certificate of good standing issued by the Registrar of Companies in Cyprus (dated no earlier than five days prior to the date of the Accession Deed);
 - (b) a certificate of no winding up issued by the Registrar of Companies in Cyprus (dated no earlier than five days prior to the date of the Accession Deed);
 - (c) a certificate of share capital issued by the Registrar of Companies in Cyprus;

- (d) its memorandum and articles of association in Greek (with the Registrar stamp appearing on the same) and English language; and
 - (e) an original certificate of incumbency from the secretary of that Additional Guarantor dated on the same day of execution of the Accession Deed in form and substance satisfactory to the Lenders' Cypriot counsel.
11. If available, the latest audited financial statements of the Additional Guarantor.
12. The following legal opinions, each addressed to the Facility Agent, the Security Agent and the Lenders:
- (a) A legal opinion of the legal advisers to the Facility Agent in England, as to English law in the form distributed to the Lenders prior to signing the Accession Deed.
 - (b) If the Additional Guarantor is incorporated in or has its "centre of main interest" or "establishment" (as referred to in Clause 14.30 (Centre of main interests and establishments)) in a jurisdiction other than England and Wales or is executing a Finance Document which is governed by a law other than English law, a legal opinion of the legal advisers to the Facility Agent in the jurisdiction of its incorporation, "centre of main interest" or "establishment" (as applicable) or, as the case may be, the jurisdiction of the governing law of that Finance Document (the **Applicable Jurisdiction**) as to the law of the Applicable Jurisdiction and in the form distributed to the Lenders prior to signing the Accession Deed.
13. If the proposed Additional Guarantor is incorporated in a jurisdiction other than England and Wales, evidence that the process agent specified in Clause 37.2 (Service of process), if not an Obligor, has accepted its appointment in relation to the proposed Additional Guarantor.

SCHEDULE 3
ORIGINAL IDENTIFIED VESSELS

<u>Vessel Name</u>	<u>Name of Original Obligor</u>	<u>Vessel flag</u>	<u>Size (teu)</u>	<u>Earliest Charter Expiry Date</u>	<u>Charter Rate (USD per day)</u>	<u>Charterer</u>
CMA CGM Matisse	Global Ship Lease 3 Limited	Cyprus	2,262	Sept 21, 2019	15,300	CMA CGM
CMA CGM Utrillo	Global Ship Lease 4 Limited	Cyprus	2,262	Sept 12, 2019	15,300	CMA CGM
Delmas Keta	Global Ship Lease 5 Limited	Bahamas	2,207	Aug 6, 2018	7,800	CMA CGM
Julie Delmas	Global Ship Lease 6 Limited	Bahamas	2,207	July 28, 2018	7,800	CMA CGM
Kumasi	Global Ship Lease 7 Limited	Bahamas	2,207	Nov 16, 2018	9,800	CMA CGM
Marie Delmas	Global Ship Lease 8 Limited	Bahamas	2,207	Nov 16, 2018	9,800	CMA CGM
CMA CGM La Tour	Global Ship Lease 9 Limited	Bahamas	2,272	Sept 20, 2019	15,300	CMA CGM
CMA CGM Manet	Global Ship Lease 10 Limited	Cyprus	2,272	Sept 17, 2019	15,300	CMA CGM
CMA CGM Chateau d'If	Global Ship Lease 12 Limited	Cyprus	5,089	Oct 11, 2020	33,750	CMA CGM
CMA CGM Thalassa	Global Ship Lease 13 Limited	Cyprus	11,040	Oct 1, 2025	47,200	CMA CGM
CMA CGM Jamaica	Global Ship Lease 14 Limited	Cyprus	4,298	Sept 17, 2022	25,350	CMA CGM
CMA CGM Sambhar	Global Ship Lease 15 Limited	Cyprus	4,045	Sept 16, 2022	25,350	CMA CGM
CMA CGM America	Global Ship Lease 16 Limited	Cyprus	4,045	Sept 19, 2022	25,350	CMA CGM

OOCL Tianjin (trn "GSL Tianjin")	Global Ship Lease 20 Limited	Hong Kong	8,063	Oct 28, 2017	34,500	OOCL
OOCL Qingdao	Global Ship Lease 21 Limited	Hong Kong	8,063	Mar 11, 2018	34,500	OOCL
OOCL Ningbo	Global Ship Lease 22 Limited	Hong Kong	8,063	Sept 17, 2018	34,500	OOCL
CMA CGM Berlioz	Global Ship Lease 23 Limited	Bahamas	6,621	May 28, 2021	34,000	CMA CGM
CMA CGM Alcazar	GSL Alcazar Inc.	Panama	5,089	Oct 18, 2020	33,750	CMA CGM

SCHEDULE 4

**CONDITIONS SUBSEQUENT TO UTILISATION OR THE ACCESSION OF AN ADDITIONAL
GUARANTOR**

The Facility Agent shall require the following documentation and evidence from the Borrower, immediately following the disbursement of the Loan and following the accession of an Additional Guarantor which owns an Additional Vessel.

1. Evidence that:
 - (a) the Mortgage in respect of each Vessel, or as the case may be, the relevant Additional Vessel, has been duly recorded in the Shipping Register of the Approved Flag State and constitutes a first priority security interest over the Vessel or as the case may be, the relevant Additional Vessel, and that all taxes and fees payable to the Shipping Register of the Approved Flag State in respect of that Vessel or as the case may be, the relevant Additional Vessel, have been paid in full;
 - (b) the title to the Vessel or as the case may be, the relevant Additional Vessel, is held by the relevant Obligor free of all Security Interests other than Permitted Security Interests; and
 - (c) the Vessel or as the case may be, the relevant Additional Vessel, is provisionally registered in the name of the relevant Obligor, in the Approved Flag State.
2. To the extent required under and at the time specified in the relevant Security Document, duly and executed originals of the acknowledgements of each notice of assignment required to be served under each Security Document required to be delivered in respect of that Vessel or as the case may be, the relevant Additional Vessel (or, where it is not possible to provide originals of the same, faxed copies with such originals to follow as soon as practicable after the relevant Utilisation Date or, as the case may be, accession of an Additional Guarantor with an Additional Vessel), duly executed by each relevant counterparty.

SCHEDULE 5

PAYMENTS

PART 1

FORM OF REQUEST

To: [•] as Facility Agent

From: [The Borrower] Date: []

US\$54,800,000 Term Facility Agreement dated [•] 2017 (the Facility Agreement)

1. We refer to the Facility Agreement. This Request is irrevocable. We wish to borrow the Loan from you as follows:
 - (a) Utilisation Date: []
 - (b) Amount: []
 - (c) Interest Period: []
2. Our payment instructions are as follows:
3. [We confirm that each condition specified in the Facility Agreement which must be satisfied on or before the date of this Request is satisfied on the date of this Request.]
4. We confirm that, as at the date of this Request the representations set out in Clause 14 (Representations) of the Facility Agreement which, pursuant to clause 14.32 are deemed to be repeated on date of this Request, are true and correct and no Default or Mandatory Prepayment Event has occurred or would result from the proposed disbursement.

By:

BORROWER

Authorised Signatory

PART 2

PAYMENT ADVICE

To: [The Borrower]

From: [•] as Facility Agent

Date: []

US\$54,800,000 Facility Agreement dated [•] 2017 (the Facility Agreement)

Further to receipt of your request dated [] 2017 and attached hereto requesting the advance of the Loan, we confirm that all amounts have been advanced in accordance with the requirements of the attached Request.

SCHEDULE 6

FORM OF TRANSFER CERTIFICATE

To: [•] as Facility Agent and [•] as Security Agent

From: [THE EXISTING BANK] and [THE NEW BANK] Date: []

US\$54,800,000 Facility Agreement dated [•] 2017 (the Facility Agreement)

We refer to the Facility Agreement and to the Intercreditor Agreement (as defined in the Facility Agreement). This agreement (the **Agreement**) shall take effect as a Transfer Certificate for the purpose of the Facility Agreement and as a Creditor Accession Undertaking for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement). Interest Periods defined in the Facility Agreement have the same meaning in this Agreement unless given a different meaning in this Agreement.

1. We [] (the Existing Bank) and [] (the New Bank) agree to the Existing Bank and the New Bank novating all the Existing Bank's rights and obligations under the Facility Agreement and the other Finance Documents which relate to that portion of the Existing Lender's Commitment(s) and participations in Utilisations under the Facility Agreement specified in the Schedule in accordance with Clause 27.2 (Procedure for transfer by way of novations).
2. The specified date for the purposes of Clause 27.2 (Procedure for transfer by way of novations) is [date of novation].
3. The Facility Office and address for notices of the New Bank for the purposes of Clause 34.2 (Contact details) are set out in the Schedule attached to this Certificate.
4. This Novation Certificate is governed by English law.
5. The New Bank confirm that it [is]/[is not] a Sponsor Affiliate.¹
6. We refer to clause [21.2] (Change of Credit Facility Lender) of the Intercreditor Agreement.
In consideration of the New Lender being accepted as a Credit Facility Lender for the purposes of the Intercreditor Agreement (and as defined therein), the New Lender confirms that, as from the Transfer Date, it intends to be party to the Intercreditor Agreement as a Credit Facility Lender, and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by a Credit Facility Lender and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement.
7. This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.
8. This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
9. This Agreement has been entered into on the date stated at the beginning of this Agreement.

¹ Delete as appropriate.

THE SCHEDULE

Rights and obligations to be novated

[Choose one of the following options (a) to (c):]

- (a) all of the rights and obligations of the Existing Lender in respect of the Facility - principal amount US\$[].
- (b) the principal amount of US\$[] in respect of each of the Loan and all the rights and obligations attached to the same-total principal amount US\$[].
- (c) the principal amount of US\$[] in respect of [each of] Loan [] [and Loan [] and []] and all the rights and obligations attached to the same.
[New Bank]

[Facility Office Address for notices]

[Existing Bank] [New Bank]

By:

By:

Date:

Date:

This Agreement is accepted as a Transfer Certificate for the purposes of the Facility Agreement by the Agent, and as a Creditor Accession Undertaking for the purposes of the Intercreditor Agreement by the Security Agent, and the Transfer Date is confirmed as [].

[Agent]

By:

[Security Agent]

By:

SCHEDULE 7

COMPLIANCE CERTIFICATE

To: [•] as Facility Agent

From: Global Ship Lease, Inc.

US\$54,800,000 Facility Agreement dated [•] 2017 (the Facility Agreement)

1. Interest Periods defined in the Facility Agreement have the same meaning in this Certificate.
2. [I/We hereby certify that [no Default has occurred and is continuing or is outstanding] [a Default under Clause [] of [specify document] is outstanding and the following steps are being taken to remedy it []].
3. [I/We hereby certify that the Debt Service Coverage Ratio (as defined in Clause 1.1 (Definitions)) as at [•] was [•]:1][I/We hereby certify that in relation to the financial covenant set out in clause 17.3 (Cash Balance) of the Facility Agreement the Cash Balance on [•] was [•]:

Yours faithfully,

[]

Chief Executive Officer

[or]

Chief Financial Officer

SCHEDULE 8

EXISTING SECURITY

PART 1

ORIGINAL SECURITY DOCUMENTS

1. a Cypriot law governed pledge and charge over shares between Global Ship Lease, Inc. as pledgor and Citibank, N.A., London Branch as pledgee in respect of shares in Global Ship Lease 3 Limited;
2. a Cypriot law governed pledge and charge over shares between Global Ship Lease, Inc. as pledgor and Citibank, N.A., London Branch as pledgee in respect of shares in Global Ship Lease 4 Limited;
3. a Cypriot law governed pledge and charge over shares between Global Ship Lease, Inc. as pledgor and Citibank, N.A., London Branch as pledgee in respect of shares in Global Ship Lease 5 Limited;
4. a Cypriot law governed pledge and charge over shares between Global Ship Lease, Inc. as pledgor and Citibank, N.A., London Branch as pledgee in respect of shares in Global Ship Lease 6 Limited;
5. a Cypriot law governed pledge and charge over shares between Global Ship Lease, Inc. as pledgor and Citibank, N.A., London Branch as pledgee in respect of shares in Global Ship Lease 7 Limited;
6. a Cypriot law governed pledge and charge over shares between Global Ship Lease, Inc. as pledgor and Citibank, N.A., London Branch as pledgee in respect of shares in Global Ship Lease 8 Limited;
7. a Cypriot law governed pledge and charge over shares between Global Ship Lease, Inc. as pledgor and Citibank, N.A., London Branch as pledgee in respect of shares in Global Ship Lease 9 Limited;
8. a Cypriot law governed pledge and charge over shares between Global Ship Lease, Inc. as pledgor and Citibank, N.A., London Branch as pledgee in respect of shares in Global Ship Lease 10 Limited;
9. a Cypriot law governed pledge and charge over shares between Global Ship Lease, Inc. as pledgor and Citibank, N.A., London Branch as pledgee in respect of shares in Global Ship Lease 12 Limited;
10. a Cypriot law governed pledge and charge over shares between Global Ship Lease, Inc. as pledgor and Citibank, N.A., London Branch as pledgee in respect of shares in Global Ship Lease 13 Limited;
11. a Cypriot law governed pledge and charge over shares between Global Ship Lease, Inc. as pledgor and Citibank, N.A., London Branch as pledgee in respect of shares in Global Ship Lease 14 Limited;
12. a Cypriot law governed pledge and charge over shares between Global Ship Lease, Inc. as pledgor and Citibank, N.A., London Branch as pledgee in respect of shares in Global Ship Lease 15 Limited;
13. a Cypriot law governed pledge and charge over shares between Global Ship Lease, Inc. as pledgor and Citibank, N.A., London Branch as pledgee in respect of shares in Global Ship Lease 16 Limited;
14. a Hong Kong law governed mortgage over shares between Global Ship Lease, Inc. as mortgagor and Citibank, N.A., London Branch as mortgagee in respect of shares in Global Ship Lease 20 Limited;
15. a Hong Kong law governed mortgage over shares between Global Ship Lease, Inc. as mortgagor and Citibank, N.A., London Branch as mortgagee in respect of shares in Global Ship Lease 21 Limited;

16. a Hong Kong law governed mortgage over shares between Global Ship Lease, Inc. as mortgagor and Citibank, N.A., London Branch as mortgagee in respect of shares in Global Ship Lease 22 Limited;
17. a Hong Kong law governed mortgage over shares between Global Ship Lease, Inc. as mortgagor and Citibank, N.A., London Branch as mortgagee in respect of shares in Global Ship Lease 23 Limited;
18. a Cypriot law governed ship mortgage between Global Ship Lease 3 Limited as mortgagor and Citibank, N.A., London Branch as mortgagee in respect of vessel "CMA CGM Matisse";
19. a Cypriot law governed deed of covenant between Global Ship Lease 3 Limited as mortgagor and Citibank, N.A., London Branch as mortgagee in respect of vessel "CMA CGM Matisse";
20. a Cypriot law governed ship mortgage between Global Ship Lease 4 Limited as mortgagor and Citibank, N.A., London Branch as mortgagee in respect of vessel "CMA CGM Utrillo";
21. a Cypriot law governed deed of covenant between Global Ship Lease 4 Limited as mortgagor and Citibank, N.A., London Branch as mortgagee in respect of vessel "CMA CGM Utrillo";
22. a Cypriot law governed ship mortgage between Global Ship Lease 10 Limited as mortgagor and Citibank, N.A., London Branch as mortgagee in respect of vessel "CMA CGM Manet";
23. a Cypriot law governed deed of covenant between Global Ship Lease 10 Limited as mortgagor and Citibank, N.A., London Branch as mortgagee in respect of vessel "CMA CGM Manet";
24. a Cypriot law governed ship mortgage between Global Ship Lease 12 Limited as mortgagor and Citibank, N.A., London Branch as mortgagee in respect of vessel "CMA CGM Chateau D'If";
25. a Cypriot law governed deed of covenant between Global Ship Lease 12 Limited as mortgagor and Citibank, N.A., London Branch as mortgagee in respect of vessel "CMA CGM Chateau D'If";
26. a Cypriot law governed ship mortgage between Global Ship Lease 13 Limited as mortgagor and Citibank, N.A., London Branch as mortgagee in respect of vessel "CMA CGM Thalassa";
27. a Cypriot law governed deed of covenant between Global Ship Lease 13 Limited as mortgagor and Citibank, N.A., London Branch as mortgagee in respect of vessel "CMA CGM Thalassa";
28. a Cypriot law governed ship mortgage between Global Ship Lease 14 Limited as mortgagor and Citibank, N.A., London Branch as mortgagee in respect of vessel "CMA CGM Jamaica";
29. a Cypriot law governed deed of covenant between Global Ship Lease 14 Limited as mortgagor and Citibank, N.A., London Branch as mortgagee in respect of vessel "CMA CGM Jamaica";
30. a Cypriot law governed ship mortgage between Global Ship Lease 15 Limited as mortgagor and Citibank, N.A., London Branch as mortgagee in respect of vessel "CMA CGM Sambhar";
31. a Cypriot law governed deed of covenant between Global Ship Lease 15 Limited as mortgagor and Citibank, N.A., London Branch as mortgagee in respect of vessel "CMA CGM Sambhar";
32. a Cypriot law governed ship mortgage between Global Ship Lease 16 Limited as mortgagor and Citibank, N.A., London Branch as mortgagee in respect of vessel "CMA CGM America";
33. a Cypriot law governed deed of covenant between Global Ship Lease 16 Limited as mortgagor and Citibank, N.A., London Branch as mortgagee in respect of vessel "CMA CGM America";

34. a Bahamian law governed ship mortgage between Global Ship Lease 5 Limited as mortgagor and Citibank, N.A., London Branch as mortgagee in respect of vessel "Delmas Keta";
35. an English law governed deed of covenant between Global Ship Lease 5 Limited as mortgagor and Citibank, N.A., London Branch as mortgagee in respect of vessel "Delmas Keta";
36. a Bahamian law governed ship mortgage between Global Ship Lease 6 Limited as mortgagor and Citibank, N.A., London Branch as mortgagee in respect of vessel "Julie Delmas";
37. an English law governed deed of covenant between Global Ship Lease 6 Limited as mortgagor and Citibank, N.A., London Branch as mortgagee in respect of vessel "Julie Delmas";
38. a Bahamian law governed ship mortgage between Global Ship Lease 7 Limited as mortgagor and Citibank, N.A., London Branch as mortgagee in respect of vessel "Kumasi";
39. an English law governed deed of covenant between Global Ship Lease 7 Limited as mortgagor and Citibank, N.A., London Branch as mortgagee in respect of vessel "Kumasi";
40. a Bahamian law governed ship mortgage between Global Ship Lease 8 Limited as mortgagor and Citibank, N.A., London Branch as mortgagee in respect of vessel "Marie Delmas";
41. an English law governed deed of covenant between Global Ship Lease 8 Limited as mortgagor and Citibank, N.A., London Branch as mortgagee in respect of vessel "Marie Delmas";
42. a Bahamian law governed ship mortgage between Global Ship Lease 9 Limited as mortgagor and Citibank, N.A., London Branch as mortgagee in respect of vessel "CMA CGM La Tour";
43. an English law governed deed of covenant between Global Ship Lease 9 Limited as mortgagor and Citibank, N.A., London Branch as mortgagee in respect of vessel "CMA CGM La Tour";
44. a Bahamian law governed ship mortgage between Global Ship Lease 23 Limited as mortgagor and Citibank, N.A., London Branch as mortgagee in respect of vessel "CMA CGM Berlioz";
45. an English law governed deed of covenant between Global Ship Lease 23 Limited as mortgagor and Citibank, N.A., London Branch as mortgagee in respect of vessel "CMA CGM Berlioz";
46. a Panamanian law governed ship mortgage between GSL Alcazar Inc. as mortgagor and Citibank, N.A., London Branch as mortgagee in respect of vessel "CMA CGM Alcazar";
47. a Hong Kong law governed ship mortgage and deed of covenant between Global Ship Lease 20 Limited as mortgagor and owner and Citibank, N.A., London Branch as mortgagee in respect of vessel "OOCL Tianjin" (trn "GSL Tianjin");
48. a Hong Kong law governed ship mortgage and deed of covenant between Global Ship Lease 21 Limited as mortgagor and owner and Citibank, N.A., London Branch as mortgagee in respect of vessel "OOCL Qingdao";
49. a Hong Kong law governed ship mortgage and deed of covenant between Global Ship Lease 22 Limited as mortgagor and owner and Citibank, N.A., London Branch as mortgagee in respect of vessel "OOCL Ningbo";
50. a Bahamian law governed ship mortgage and deed of covenant between Global Ship Lease 23 Limited as mortgagor and owner and Citibank, N.A., London Branch as mortgagee in respect of vessel "Berlioz");

51. an English law governed deed of assignment between Global Ship Lease 3 Limited as assignor and Citibank, N.A., London Branch as security agent in respect of insurance, charters, freights and hires relating to vessel "CMA CGM Matisse";
52. an English law governed deed of assignment between Global Ship Lease 4 Limited as assignor and Citibank, N.A., London Branch as security agent in respect of insurance, charters, freights and hires relating to vessel "CMA CGM Utrillo";
53. an English law governed deed of assignment between Global Ship Lease 5 Limited as assignor and Citibank, N.A., London Branch as security agent in respect of insurance, charters, freights and hires relating to vessel "Delmas Keta";
54. an English law governed deed of assignment between Global Ship Lease 6 Limited as assignor and Citibank, N.A., London Branch as security agent in respect of insurance, charters, freights and hires relating to vessel "Julie Delmas";
55. an English law governed deed of assignment between Global Ship Lease 7 Limited as assignor and Citibank, N.A., London Branch as security agent in respect of insurance, charters, freights and hires relating to vessel "Kumasi";
56. an English law governed deed of assignment between Global Ship Lease 8 Limited as assignor and Citibank, N.A., London Branch as security agent in respect of insurance, charters, freights and hires relating to vessel "Marie Delmas";
57. an English law governed deed of assignment between Global Ship Lease 9 Limited as assignor and Citibank, N.A., London Branch as security agent in respect of insurance, charters, freights and hires relating to vessel "CMA CGM La Tour";
58. an English law governed deed of assignment between Global Ship Lease 10 Limited as assignor and Citibank, N.A., London Branch as security agent in respect of insurance, charters, freights and hires relating to vessel "CMA CGM Manet";
59. an English law governed deed of assignment between Global Ship Lease 12 Limited as assignor and Citibank, N.A., London Branch as security agent in respect of insurance, charters, freights and hires relating to vessel "CMA CGM Chateau D'If";
60. an English law governed deed of assignment between Global Ship Lease 13 Limited as assignor and Citibank, N.A., London Branch as security agent in respect of insurance, charters, freights and hires relating to vessel "CMA CGM Thalassa";
61. an English law governed deed of assignment between Global Ship Lease 14 Limited as assignor and Citibank, N.A., London Branch as security agent in respect of insurance, charters, freights and hires relating to vessel "CMA CGM Jamaica";
62. an English law governed deed of assignment between Global Ship Lease 15 Limited as assignor and Citibank, N.A., London Branch as security agent in respect of insurance, charters, freights and hires relating to vessel "CMA CGM Sambhar";
63. an English law governed deed of assignment between Global Ship Lease 16 Limited as assignor and Citibank, N.A., London Branch as security agent in respect of insurance, charters, freights and hires relating to vessel "CMA CGM America";

64. an English law governed deed of assignment between GSL Alcazar Inc. as assignor and Citibank, N.A., London Branch as security agent in respect of insurance, charters, freights and hires relating to vessel “CMA CGM Alcazar”;
65. an English law governed deed of assignment between Global Ship Lease 20 Limited as assignor and Citibank, N.A., London Branch as security agent in respect of insurance, charters, freights and hires relating to vessel “OOCL Tianjin” (trn “GSL Tianjin”);
66. an English law governed deed of assignment between Global Ship Lease 21 Limited as assignor and Citibank, N.A., London Branch as security agent in respect of insurance, charters, freights and hires relating to vessel “OOCL Qingdao”;
67. an English law governed deed of assignment between Global Ship Lease 22 Limited as assignor and Citibank, N.A., London Branch as security agent in respect of insurance, charters, freights and hires relating to vessel “OOCL Ningbo”;
68. an English law governed deed of assignment between Global Ship Lease 23 Limited as assignor and Citibank, N.A., London Branch as security agent in respect of insurance, charters, freights and hires relating to vessel “CMA CGM Berlioz”;
69. an English law governed charge over shares between Global Ship Lease, Inc. as pledgor and Citibank, N.A., London Branch as pledgee in respect of shares in GSL Alcazar Inc.
70. a Dutch law governed deed of disclosed pledge of receivables (bank accounts) dated Citibank, N.A., London Branch, between GSL Alcazar Inc. as pledgor and Citibank, N.A., London Branch as pledgee;
71. a Dutch law governed deed of disclosed pledge of receivables (bank accounts) between Global Ship Lease, Inc. as pledgor and Citibank, N.A., London Branch as pledgee;
72. a Dutch law governed deed of disclosed pledge of receivables (bank accounts) between Global Ship Lease Services Limited. as pledgor and Citibank, N.A., London Branch as pledgee;
73. a Dutch law governed deed of disclosed pledge of receivables (bank accounts) between Global Ship Lease 3 Limited as pledgor and Citibank, N.A., London Branch as pledgee;
74. a Dutch law governed deed of disclosed pledge of receivables (bank accounts) between Global Ship Lease 4 Limited as pledgor and Citibank, N.A., London Branch as pledgee;
75. a Dutch law governed deed of disclosed pledge of receivables (bank accounts) between Global Ship Lease 5 Limited as pledgor and Citibank, N.A., London Branch as pledgee;
76. a Dutch law governed deed of disclosed pledge of receivables (bank accounts) between Global Ship Lease 6 Limited as pledgor and DVB Bank S.E. as pledgee;
77. a Dutch law governed deed of disclosed pledge of receivables (bank accounts) between Global Ship Lease 7 Limited as pledgor and Citibank, N.A., London Branch as pledgee;
78. a Dutch law governed deed of disclosed pledge of receivables (bank accounts) between Global Ship Lease 8 Limited as pledgor and Citibank, N.A., London Branch as pledgee;
79. a Dutch law governed deed of disclosed pledge of receivables (bank accounts) between Global Ship Lease 9 Limited as pledgor and Citibank, N.A., London Branch as pledgee;

80. a Dutch law governed deed of disclosed pledge of receivables (bank accounts) between Global Ship Lease 10 Limited as pledgor and Citibank, N.A., London Branch as pledgee;
81. a Dutch law governed deed of disclosed pledge of receivables (bank accounts) between Global Ship Lease 12 Limited as pledgor and Citibank, N.A., London Branch as pledgee;
82. a Dutch law governed deed of disclosed pledge of receivables (bank accounts) between Global Ship Lease 13 Limited as pledgor and Citibank, N.A., London Branch as pledgee;
83. a Dutch law governed deed of disclosed pledge of receivables (bank accounts) between Global Ship Lease 14 Limited as pledgor and Citibank, N.A., London Branch as pledgee;
84. a Dutch law governed deed of disclosed pledge of receivables (bank accounts) between Global Ship Lease 15 Limited as pledgor and Citibank, N.A., London Branch as pledgee;
85. a Dutch law governed deed of disclosed pledge of receivables (bank accounts) between Global Ship Lease 16 Limited as pledgor and Citibank, N.A., London Branch as pledgee;
86. a Dutch law governed deed of disclosed pledge of receivables (bank accounts) between Global Ship Lease 20 Limited as pledgor and Citibank, N.A., London Branch as pledgee;
87. a Dutch law governed deed of disclosed pledge of receivables (bank accounts) between Global Ship Lease 21 Limited as pledgor and Citibank, N.A., London Branch as pledgee;
88. a Dutch law governed deed of disclosed pledge of receivables (bank accounts) between Global Ship Lease 22 Limited as pledgor and Citibank, N.A., London Branch as pledgee; and
89. a Dutch law governed deed of disclosed pledge of receivables (bank accounts) between Global Ship Lease 23 Limited as pledgor and Citibank, N.A., London Branch as pledgee.
90. an English law governed deed of assignment made between the Borrower as assignor and Citibank, N.A., London Branch as assignee, in relation to the intracompany loan agreement dated on or about the date of this Agreement.

A. Memoranda, Deeds or Other Agreements of Discharge

- (a) English law deed of release between, inter alios, Global Ship Lease, Inc. and DBTCA, effecting the global release of the collateral securing the borrowers' obligations under the Existing Revolving Credit Facility Agreement and the 2019 Notes.
- (b) Hong Kong law deed of release between, inter alios, Global Ship Lease, Inc. and DBTCA in relation to, among other things, security granted over the m.v. Qingdao and the shares of Global Ship Lease 21 Limited and Global Ship Lease 23 Limited.
- (c) Cancellation deed relating to the Panamanian law mortgage over the m.v. CMA CGM Alcazar.
- (d) Memoranda of discharge relating to the Bahamian law mortgages granted over each of the following vessels: Delmas Keta, Julie Delmas, Kumasi, Marie Delmas, CMA CGM La Tour, and CMA CGM Berlioz.
- (e) Cypriot law governed (i) memoranda of discharge relating to the Cypriot law mortgages over each of the CMA CGM Matisse, CMA CGM Utrillo, CMA CGM Manet, CMA CGM Chateau d'If, CMA CGM Thalassa, CMA CGM Jamaica, CMA CGM Sambhar, and CMA CGM America, and (ii) release letters in respect of the shares pledged granted over the Guarantors (other than GSL Alcazar Inc.).
- (f) Dutch law cancellation letter relating to the Dutch account pledges granted by each Guarantor (other than GSLS) to secure the Existing Revolving Credit Facility Agreement and the 2019 Notes.
- (g) Memorandum of discharge relating to the Hong Kong law ship mortgage granted over the m.v. Qingdao.

Each of the above to be duly executed and, as necessary for their effectiveness, notarised /apostilled and delivered.

SCHEDULE 9

NOT USED

SCHEDULE 10

APPROVED FLAG STATES

United Kingdom

France

Germany

Netherlands

Denmark

Norway

Sweden

Greece

Republic of Cyprus (excluding the 'Turkish Republic of Northern Cyprus')

Ireland

Belgium

Malta

Hong Kong

Panama

Bahamas

Liberia

Isle of Man

Bermuda

Marshall Islands

Cayman Islands

Singapore

SCHEDULE 11

FORM OF ACCESSION DEED

To: [] as Facility Agent and [] as Security Agent for itself and each of the other parties to the Intercreditor Agreement referred to below

From: [Subsidiary] and [Parent]

Dated:

Dear Sirs

[Parent] – [] Term Loan Agreement
dated [] (the Facility Agreement)

1. We refer to the Facility Agreement and to the Intercreditor Agreement. This deed (the **Accession Deed**) shall take effect as an Accession Deed for the purposes of the Facility Agreement and as a Debtor Accession Deed for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement). Interest Periods defined in the Facility Agreement have the same meaning in paragraphs 1-3 of this Accession Deed unless given a different meaning in this Accession Deed.
2. [Subsidiary] agrees to become an Additional Guarantor and to be bound by the terms of the Facility Agreement and the other Finance Documents (other than the Intercreditor Agreement) as an Additional Guarantor pursuant to Clause 26.2 (Additional Guarantors) of the Facility Agreement. [Subsidiary] is a company duly incorporated under the laws of [name of relevant jurisdiction] and is a limited liability company and registered number [].
3. The Borrower confirms that no Default is continuing or would occur as a result of [Subsidiary] becoming an Additional Guarantor.
4. [Subsidiary's] administrative details for the purposes of the Facility Agreement and the Intercreditor Agreement are as follows:
Address:
Fax No.:
Attention:
5. [Subsidiary] (for the purposes of this paragraph [4]/[5], the **Acceding Debtor**) intends to give a guarantee, indemnity or other assurance against loss in respect of Liabilities under the following documents:
[Insert details (date, parties and description) of relevant documents]
the **Relevant Documents**.
IT IS AGREED as follows:
(a) Interest Periods defined in the Intercreditor Agreement shall, unless otherwise defined in this Accession Deed, bear the same meaning when used in this paragraph [4]/[5].

- (b) The Acceding Debtor and the Security Agent agree that the Security Agent shall hold:
- (i) any Security Interest in respect of Liabilities created or expressed to be created pursuant to the Relevant Documents;
 - (ii) all proceeds of that Security Interest ; and
 - (iii) all obligations expressed to be undertaken by the Acceding Debtor to pay amounts in respect of the Liabilities to the Security Agent as trustee for the Secured Parties (in the Relevant Documents or otherwise) and secured by the Transaction Security together with all representations and warranties expressed to be given by the Acceding Debtor (in the Relevant Documents or otherwise) in favour of the Security Agent as trustee for the Secured Parties,
- on trust for the Secured Parties on the terms and conditions contained in the Intercreditor Agreement.
- (c) The Acceding Debtor confirms that it intends to be party to the Intercreditor Agreement as a Debtor, undertakes to perform all the obligations expressed to be assumed by a Debtor under the Intercreditor Agreement and agrees that it shall be bound by all the provisions of the Intercreditor Agreement as if it had been an original party to the Intercreditor Agreement.
- (d) [In consideration of the Acceding Debtor being accepted as an Intra Group Lender for the purposes of the Intercreditor Agreement, the Acceding Debtor also confirms that it intends to be party to the Intercreditor Agreement as an Intra Group Lender, and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by an Intra Group Lender and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement].²

6. This Accession Deed and any non-contractual obligations arising out of or in connection with it are governed by English law.

THIS ACCESSION DEED has been signed on behalf of the Security Agent (for the purposes of paragraph [4]/[5] above only), signed on behalf of the Borrower and executed as a deed by [Subsidiary] and is delivered on the date stated above.

[Subsidiary]

[EXECUTED AS A DEED)

By: [Subsidiary])

_____ Director

_____ Director/Secretary

² Include this paragraph in this Accession Deed if the Subsidiary is also to accede as an Intra Group Lender to the Intercreditor Agreement.

OR

[EXECUTED AS A DEED)]

By: [Subsidiary])]

Signature of Director

Name of Director

in the presence of

Signature of witness

Name of witness

Address of witness

Occupation of witness]

The Borrower

[Parent]

By:

The Security Agent

[Full name of current Security Agent]

By:

Date:

SCHEDULE 12

LMA FORM OF CONFIDENTIALITY UNDERTAKING

[Letterhead of Seller]

Date: []

To: [insert name of Potential Purchaser]

Re: US\$54,800,000 Super Senior Facility Agreement dated [•] 2017 (the Agreement)

Company: Global Ship Lease, Inc. (the **Company**)

Date:

Amount:

Agent:

Dear Sirs

We understand that you are considering acquiring an interest in the Agreement which, subject to the Agreement, may be by way of novation, assignment, the entering into, whether directly or indirectly, of a sub-participation 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 Obligors or by way of investing in or otherwise financing, directly or indirectly, any such novation, assignment, sub-participation or other transaction (the **Acquisition**). In consideration of us agreeing to make available to you certain information, by your signature of a copy of this letter you agree as follows:

1. Confidentiality Undertaking

You undertake (a) to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by paragraph 2 below and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to your own confidential information, and (b) until the Acquisition is completed to use the Confidential Information only for the Permitted Purpose.

2. Permitted Disclosure

We agree that you may disclose:

- (a) to any of your Affiliates and any of your or their officers, directors, employees, professional advisers and auditors such Confidential Information as you shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information, except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;
- (b) subject to the requirements of the Agreement, to any person:

- (i) to (or through) whom you assign or transfer (or may potentially assign or transfer) all or any of your rights and/or obligations which you may acquire under the Agreement such Confidential Information as you shall consider appropriate if the person to whom the Confidential Information is to be given pursuant to this sub-paragraph (i) of paragraph (b) has delivered a letter to you in equivalent form to this letter;
 - (ii) with (or through) whom you enter 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 the Agreement or any Obligor such Confidential Information as you shall consider appropriate if the person to whom the Confidential Information is to be given pursuant to this sub-paragraph (ii) of paragraph (b) has delivered a letter to you in equivalent form to this letter;
 - (iii) to whom information is required or requested to be disclosed by any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation such Confidential Information as you shall consider appropriate; and
- (c) notwithstanding paragraphs (a) and (b) above, Confidential Information to such persons to whom, and on the same terms as, a Finance Party is permitted to disclose Confidential Information under the Agreement, as if such permissions were set out in full in this letter and as if references in those permissions to Finance Party were references to you.

3. Notification of disclosure

You agree (to the extent permitted by law and regulation) to inform us:

- (a) of the circumstances of any disclosure of Confidential Information made pursuant to sub paragraph (iii) of paragraph 2(b) above except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
- (b) upon becoming aware that Confidential Information has been disclosed in breach of this letter.

4. Return of copies

If you do not enter into the Acquisition and we so request in writing, you shall return or destroy all Confidential Information supplied to you by us and destroy or permanently erase (to the extent technically practicable) all copies of Confidential Information made by you and use your reasonable endeavours to ensure that anyone to whom you have supplied any Confidential Information destroys or permanently erases (to the extent technically practicable) such Confidential Information and any copies made by them, in each case save to the extent that you or the recipients are required to retain any such Confidential Information by any applicable law, rule or regulation or by any competent judicial, governmental, supervisory or regulatory body or in accordance with internal policy, or where the Confidential Information has been disclosed under sub-paragraph (iii) of paragraph 2(b) above.

5. Continuing obligations

The obligations in this letter are continuing and, in particular, shall survive and remain binding on you until (a) if you become a party to the Agreement as a lender of record, the date on which you become such a party to the Agreement; (b) if you enter into the Acquisition but it does not result in you becoming a party to the Agreement as a lender of record, the date falling twelve months after the date on which all of your rights and obligations contained in the documentation entered into to implement that Acquisition have terminated; or (c) in any other case the date falling twelve months after the date of your final receipt (in whatever manner) of any Confidential Information.

6. No representations of Breach etc.

You acknowledge and agree that:

- (a) neither we, nor any member of the Group nor any of our or their respective officers, employees or advisers (each a **Relevant Person**)
 - (i) make any representation or warranty, express or implied, as to, or assume any responsibility for, the accuracy, reliability or completeness of any of the Confidential Information or any other information supplied by us or the assumptions on which it is based or
 - (ii) shall be under any obligation to update or correct any inaccuracy in the Confidential Information or any other information supplied by us or be otherwise liable to you or any other person in respect of the Confidential Information or any such information; and
- (b) we or members of the Group may be irreparably harmed by the breach of the terms of this letter and damages may not be an adequate remedy; each Relevant Person may be granted an injunction or specific performance for any threatened or actual breach of the provisions of this letter by you.

7. Entire Agreement: No waiver, amendments etc.

- (a) This letter constitutes the entire agreement between us in relation to your obligations regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.
- (b) No failure to exercise, nor any delay in exercising, any right or remedy under this letter will operate as a waiver of any such right or remedy or constitute an election to affirm this letter. No election to affirm this letter will be effective unless it is in writing. No single or partial exercise of any right or remedy will prevent any further or other exercise or the exercise of any other right or remedy under this letter.
- (c) The terms of this letter and your obligations under this letter may only be amended or modified by written agreement between us.

8. Inside information

You 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 you undertake not to use any Confidential Information for any unlawful purpose.

9. Nature of undertakings

The undertakings given by you under this letter are given to us and are also given for the benefit of the Company and each other member of the Group.

10. Third party rights

- (a) Subject to this paragraph 10 and to paragraphs 6 and 9, a person who is not a party to this letter has no right under the Contracts (Rights of Third Parties) Act 1999 (the **Third Parties Act**) to enforce or to enjoy the benefit of any term of this letter.
- (b) The Relevant Persons may enjoy the benefit of the terms of paragraphs 6 and 9 subject to and in accordance with this paragraph 10 and the provisions of the Third Parties Act.
- (c) Notwithstanding any provisions of this letter, the parties to this letter do not require the consent of any Relevant Person to rescind or vary this letter at any time.

11. Governing law and jurisdiction

- (a) This letter (including the agreement constituted by your acknowledgement of its terms) (the **Letter**) and any non-contractual obligations arising out of or in connection with it (including any non contractual obligations arising out of the negotiation of the transaction contemplated by this Letter) are governed by English law.
- (b) The courts of England have non-exclusive jurisdiction to settle any dispute arising out of or in connection with this Letter (including a dispute relating to any non-contractual obligation arising out of or in connection with either this Letter or the negotiation of the transaction contemplated by this Letter).

12. Definitions

In this letter (including the acknowledgement set out below) terms defined in the Agreement shall, unless the context otherwise requires, have the same meaning and:

Confidential Information means all information relating to the Company, any Obligor, the Group, the Finance Documents, the Facility and/or the Acquisition which is provided to you in relation to the Finance Documents or the Facility by us or any of our affiliates or 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:

- (a) is or becomes public information other than as a direct or indirect result of any breach by you of this letter; or
- (b) is identified in writing at the time of delivery as non-confidential by us or our advisers; or
- (c) is known by you before the date the information is disclosed to you by us or any of our affiliates or advisers or is lawfully obtained by you after that date, from a source which is, as far as you are aware, unconnected with the Group and which, in either case, as far as you are aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality.

Group means the Company and its subsidiaries for the time being (as such term is defined in the Companies Act 2006).

Permitted Purpose means considering and evaluating whether to enter into the Acquisition.

Please acknowledge your agreement to the above by signing and returning the enclosed copy.

Yours faithfully

For and on behalf of

[Seller]

To: [Seller]

The Company and each other member of the Group

We acknowledge and agree to the above:

For and on behalf of

[Potential Purchaser]

SCHEDULE 13

NOTES RESTRICTIVE COVENANTS

Terms used in this Schedule 13 shall, if not otherwise defined in this Schedule 13, have the meaning given to them elsewhere in this Agreement. A reference in this Schedule 13 to a “paragraph” is to a paragraph contained in this Schedule 13.

1. **Possession, Use and Release of Collateral**

- 1.1 Unless an Event of Default shall have occurred and be continuing, the Borrower or the applicable Guarantor will have the right to remain in possession and retain exclusive control of the Collateral securing the Indebtedness under the Finance Documents (other than the Equity Interests of the Guarantors and other than as set forth in the Security Documents), to freely operate or use the Collateral, to alter, maintain or repair the Collateral in the ordinary course, and to collect, invest and dispose of any income thereon. In addition, unless an Event of Default shall have occurred and be continuing, the Borrower and any Guarantor may amend, modify, supplement, replace, extend, renew or waive any term of, or terminate, or take any other action with respect to any assigned rights, assigned property and assigned contracts comprising the Collateral to the extent not otherwise prohibited by the terms of this Agreement, including the provisions described under paragraph 10.
- 1.2 **Release of Collateral.** Subject to Clause 6.3 (*Disposal proceeds*), the Borrower and each Guarantor will have the right to sell, exchange or otherwise dispose of any of the Collateral owned by it, upon compliance with the requirements and conditions of the provisions described below, and the Security Agent shall release the same from the Lien of the Security Documents simultaneously with the receipt of the Net Proceeds or Total Loss Event Proceeds, upon direction by the Facility Agent following receipt by the Facility Agent and the Security Agent of a direction from the Borrower and each applicable Guarantor directing such release and describing the property to be so released, together with delivery of the following, among other matters:
- (a) an Officer’s Certificate of the Borrower or the relevant Guarantor, as the case may be, dated the date of the application for such release, in each case stating in substance as to certain matters, including the following:
- (i) the release complies with the provisions of paragraphs 2, 4, 5, and/or 8, as applicable;
 - (ii) that no Default or Event of Default has occurred and is continuing (unless the Majority Lenders have consented to such action);
 - (iii) that all conditions precedent in the Finance Documents relating to the release of the Collateral in question have been complied with; and
- (b) one or more opinions of counsel which, when considered collectively, shall be substantially to the effect that all conditions precedent provided in the Finance Documents relating to the release of the Collateral have been complied with.
- 1.3 In connection with any release, the Borrower and the Guarantors shall (i) execute, deliver and record or file and obtain such instruments as may be required, including, without limitation, amendments to the Security Documents and (ii) deliver to the Facility Agent and the Security Agent evidence of the satisfaction of the applicable provisions of the Finance Documents.

- 1.4 Notwithstanding the foregoing, any Collateral may be released in accordance with an enforcement action pursuant to the provisions of the Intercreditor Agreement or any Additional Intercreditor Agreement.
- 1.5 The Security Agent and the Facility Agent (but only if required) will take all reasonable actions requested by the Borrower that are necessary to effectuate any release of Collateral securing the Indebtedness under the Finance Documents, in accordance with the provisions of the Finance Documents and any Additional Intercreditor Agreement. Each of the releases set forth above shall be effected by the Security Agent without the consent of the Lenders or any action on the part of the Facility Agent (unless action is required by it to effect such release). Any releases of Collateral made in compliance with this paragraph 1 shall be deemed not to impair the Security Interests created by the Security Documents. For the avoidance of doubt, the foregoing provisions shall not permit the Security Agent to release or grant any waivers or otherwise take any action with respect to releasing the Transaction Security to the extent in favour of any Secured Party other than the Finance Parties (and any such release, waiver or action with respect to any such other Secured Party shall be governed by the Debt Documents applicable to such secured parties, the Intercreditor Agreement and any Additional Intercreditor Agreement).
- 1.6 *Disposition of Collateral Without Release.*
- (a) Notwithstanding the provisions of paragraphs 1.1 to 1.5 above, so long as no Event of Default shall have occurred and be continuing, the Borrower or any Guarantor may, in accordance with the provisions of this Agreement, without any release or consent by the Facility Agent or the Security Agent:
- (i) sell or otherwise dispose of any machinery, equipment, furniture, tools, materials or supplies or other similar property subject to the Lien of the Security Documents, which may have become worn out or obsolete;
 - (ii) grant rights-of-way and easements over or in respect of any real property; provided, however, that such grant will not, in the reasonable opinion of the Board of Directors of the Borrower or the relevant Guarantor, as the case may be, materially impair the usefulness of such property in the conduct of the Borrower's business and will not be materially prejudicial to the interests of the Finance Parties;
 - (iii) abandon, terminate, cancel, release, extend, renew, replace, amend or modify any leases, contracts or rights-of-way subject to the Lien of any of the Security Documents or surrender or modify any franchise, license or permit subject to the Lien of any of the Security Documents which it may own or under which it may be operating;
 - (iv) alter, repair, replace, change the location or position of and add to its plants, structures, machinery, systems, equipment, fixtures and appurtenances;
 - (v) demolish, dismantle, tear down or scrap any Collateral (other than the Vessels), or abandon any thereof (other than the Vessels), if in the good faith opinion of the Borrower or the relevant Guarantor, as the case may be, such demolition, dismantling, tearing down, scrapping or abandonment is in the interests of the Borrower or the relevant Guarantor, as the case may be, and the Fair Market Value and utility of the Collateral as an entirety will not thereby be impaired in any material respect; or

- (vi) apply insurance proceeds received under such circumstances other than an Event of Loss to the repair of the Vessel to which such insurance proceeds related in accordance with the Security Documents.
- (b) In the event that the Borrower or any Guarantor has sold, exchanged or otherwise disposed of or proposes to sell, exchange or otherwise dispose of any portion of the Collateral which under the provisions of this paragraph 1.6 may be sold, exchanged or otherwise disposed of by the Borrower or such Guarantor without any release or consent of the Facility Agent or the Security Agent, and the Borrower or such Guarantor, as the case may be, requests the Security Agent to furnish a written disclaimer, release or quitclaim of any interest in such property under any of the Security Documents, the Security Agent shall, at the cost and expense of the Borrower and such Guarantor, promptly execute such an instrument upon delivery to the Facility Agent and the Security Agent of (i) an Officer's Certificate by the Borrower or such Guarantor, as the case may be, (A) reciting the sale, exchange or other disposition made or proposed to be made and describing in reasonable detail the property affected thereby, and stating that such property is property which by the provisions of this paragraph 1.6 may be sold, exchanged or otherwise disposed of or dealt with by the Borrower or such Guarantor, as the case may be, without any release or consent of the Facility Agent or the Security Agent, and (B) that all conditions precedent provided in the Finance Documents and the Senior Secured Note Documents relating to the written disclaimer, release or quitclaim or any interest in such property have been complied with.

Any disposition of Collateral made in compliance with the provisions of this paragraph 1.6 shall be deemed not to impair the Security Interests in contravention of the provisions of this Agreement.

Any such disclaimer, release or quitclaim shall be without recourse to, or any representation or warranty by, the Facility Agent or the Security Agent.

2. **Addition and Substitution of Collateral**

- 2.1 The Borrower or any Guarantor may at its option, at any time and from time to time, substitute Collateral for Vessels of an aggregate equivalent or greater Fair Market Value (as assessed on a like for like basis) including without limitation in connection with any refinancing transaction or add further Vessels to the Collateral; *provided* that (i) in the case of a substitution only, at the time of such substitution no Default shall have occurred and be continuing and (ii) such substitution or addition shall comply with the provisions described below:
- 2.2 If the Borrower or any Subsidiary:
 - (a) provides security over one or more Additional Vessels which will constitute Collateral in accordance with the provisions of the Finance Documents and any Additional Intercreditor Agreement; or
 - (b) elects to substitute Collateral with one or more Additional Vessels that become Collateral or to apply any Net Proceeds or Total Loss Event Proceeds from disposals or losses of Collateral to acquire one or more Additional Vessels that become Collateral, in each case in accordance with the applicable provisions of the Finance Documents,

then simultaneously with the receipt, acquisition, addition or substitution of such additional or other container vessel(s), the Borrower or the Subsidiary that is the owner of each such Additional Vessel, shall, if it is not already a Guarantor, execute a Guarantee of the Borrower's obligations under this Agreement and the Senior Secured Notes and become a Guarantor under the Finance Documents (and must be or become a Wholly Owned Subsidiary of the Borrower at such time) and it shall deliver to the Facility Agent and the Security Agent (A) each of the documents and evidence set out in Part 3 of Schedule 2 (*Additional Vessel Conditions Precedent*) and an assignment of any intra-group loan to such Guarantor from the Borrower. (in form and substance reasonably satisfactory to the Facility Agent) and (B) an Officer's Certificate with respect to certain matters set forth in the Senior Secured Note Indenture and (C) an Opinion of Counsel with respect to perfection of the security interest in such additional or substitute Collateral.

2.3 Notwithstanding the foregoing, unless an Event of Default shall have occurred and be continuing, the Borrower or the relevant Guarantor may amend, modify, supplement, replace, extend, renew or waive any term of, or terminate, or take any other action with respect to any assigned rights, assigned property or assigned contract comprising the Collateral to the extent not otherwise prohibited by the terms of this Agreement, including the provisions described under paragraph 10.

3. ***Vessel Covenants***

The Borrower will, and will cause the Guarantors to, at all times (i) maintain the classification of each Vessel, (ii) maintain the flag and registry of each Vessel in an Approved Flag State (iii) keep each Vessel in good and safe condition and repair, consistent with prudent ownership and industry standards and (iv) procure that each Vessel be managed by a Manager.

Notwithstanding the foregoing, the Borrower or a Guarantor may transfer or change the flag of any of its Vessels to the flag of any other Approved Flag State and in connection therewith the Facility Agent shall instruct the Security Agent to release the existing Mortgage and related Security Documents (insofar as they secure any obligations under the Finance Documents) to which any Vessel is subject in connection with the transfer or change of the flag of such Vessel to another Approved Flag State if (i) the owner of the Vessel has executed (A) a new Mortgage (granting the Security Agent a security interest in such Vessel subject only to Permitted Liens) and (B) the related Security Documents with respect to such Vessel, dated the date such Vessel shall be released from the existing Mortgage and related Security Documents to which it is subject, which Mortgage and related Security Documents shall be in appropriate form for recording or registration in the appropriate governmental offices of the Approved Flag State under which it is being reflagged and the appropriate governmental offices in the jurisdiction of incorporation and/or domicile of the Borrower or the applicable Guarantor if required by applicable law in order to perfect the security interests therein created, as to which the Facility Agent and the Security Agent will be entitled to rely on an Opinion of Counsel to the Borrower with respect thereto; and (ii) the Guarantor has made all necessary arrangements for recording the Mortgage referred to in sub-paragraph (i) above in the appropriate registry office of the Approved Flag State under which the Vessel is being reflagged as soon as reasonably practicable and to make any other filing necessary to perfect the security therein. In addition to the Opinion of Counsel referenced in (i)(B) above, prior to the Security Agent providing any such release, it shall be entitled to receive and to rely exclusively on an Officer's Certificate and an Opinion of Counsel each stating that such release is authorized or permitted by the terms of the Finance Documents and that all conditions precedent provided in the Finance Documents relating to the execution and delivery of such release have been complied with.

4. ***Asset Sales Involving Certain Collateral***

4.1 The Borrower will not, and will not permit any of its Subsidiaries to, consummate an Asset Sale involving Vessels or the Equity Interests of the Guarantors unless:

- (1) the Borrower or any of its Subsidiaries receives consideration at the time of the Asset Sale at least equal to the Fair Market Value (for the avoidance of doubt, the Fair Market Value may be determined at the time a contract is entered into for an Asset Sale) of the assets or Equity Interests issued or sold or otherwise disposed of; and
- (2) the consideration received in the Asset Sale by the Borrower or such Subsidiary consists of cash, Cash Equivalents or Additional Vessels, and in each case, a first-priority Lien in a form appropriate to such consideration is placed over such consideration simultaneously with consummation of the Asset Sale, (and in the case of cash or Cash Equivalents, such Lien remains in place until such cash or Cash Equivalents are applied in accordance with paragraph 4.2 below).
- (3) such Asset Sale is made in compliance with the provisions described in paragraph 1 above.

For purposes of this provision, any securities, notes or other obligations received by the Borrower or any such Subsidiary from such transferee or any other Person on account of such Asset Sale that are, within 90 days of the Asset Sale, converted, sold or exchanged by the Borrower or such Subsidiary into cash or Cash Equivalents, will be deemed to be cash to the extent of the cash or Cash Equivalents received in that conversion, sale or exchange.

4.2 Subject to Clause 6.3 (*Disposal proceeds*) and Clause 16.17 (*Note Purchase Condition*), in respect of any Asset Sale subject to this paragraph 4, within 365 days (subject to extension as provided in the immediately succeeding paragraph) after the receipt of any Net Proceeds from such Asset Sale, the Borrower or the applicable Subsidiary shall:

- (1) apply an amount equal to such Net Proceeds to:
 - (a) repay or prepay obligations under this Agreement or any other Indebtedness to the extent that such obligations rank super-senior to the Senior Secured Notes and any additional notes under the Intercreditor Agreement; or
 - (b) acquire one or more Additional Vessels and make such Additional Vessels subject to a first-priority Lien in accordance with the provisions described under paragraph 2 above (Addition and Substitution of Collateral) and paragraph 1 (Possession, Use and Release of Collateral);
- (2) enter into a binding commitment to apply all or part of the Net Proceeds pursuant to sub-paragraph (b) above or make a determination in good faith to potentially apply all or a portion of such Net Proceeds towards the exercise of a Vessel Purchase Option Contract, provided that such binding commitment or determination shall be treated as a permitted application of the Net Proceeds from the date thereof until the earlier of (x) the date on which such acquisition or expenditure is consummated, (y) the date such Vessel Purchase Option Contract terminates or expires and (z) the 365th day following the expiration of the aforementioned 365-day period; and/or
- (3) any combination of the foregoing

provided that during such 365-day period (or any extension thereof pursuant to sub-paragraph (2) above) and pending the final application of any Net Proceeds in accordance with this paragraph, such Net Proceeds shall be deposited in a Collateral Account (or otherwise subject to security appropriate to the Cash Equivalents that constitute the Net Proceeds) and charged with a first priority Lien in favour of the Finance Parties and shall constitute Collateral, subject to release in accordance with the provisions of the Intercreditor Agreement.

Notwithstanding the foregoing, the Borrower or any Guarantor may elect to repay or redeem Indebtedness or make an acquisition or otherwise apply cash in accordance with sub-paragraphs (1), (2) or (3) above prior to receiving the Net Proceeds attributable to any Asset Sale and deem the amount of any such repayment, investment, acquisition or cash payment as an application of Net Proceeds pursuant to and in accordance with such sub-paragraphs.

- 4.3 Any Net Proceeds from Asset Sales subject to this covenant that are not applied or invested as provided in paragraph 4.2 above will constitute "Excess Collateral Proceeds" and, subject to Clause 16.17 (*Note Purchase Condition*), when the aggregate amount of Excess Proceeds exceeds \$25,000,000, the amount of such Excess Proceeds shall be applied in accordance with Section 4.13(e) through (j) of the Senior Secured Note Indenture.

5. **Total Loss Events**

- 5.1 Subject to Clause 6.3 (*Disposal proceeds*) and Clause 16.17 (*Note Purchase Condition*), in respect of any Total Loss Event that occurs at any time with respect to a Vessel, (the Vessel suffering the loss being the "**Lost Vessel**"), within 365 days (subject to extension as provided in paragraph (2) below after the receipt of any Total Loss Event Proceeds, the Borrower or the applicable Subsidiary shall:

- (1) apply an amount equal to such Total Loss Event Proceeds to:
 - (a) repay or prepay obligations under this Agreement or any other Indebtedness to the extent that such obligations rank super-senior to the Senior Secured Notes and any additional notes under the Intercreditor Agreement; or
 - (b) acquire one or more Additional Vessels and make such Additional Vessels subject to a first-priority Lien in accordance with the provisions described under paragraph 2 above (Addition and Substitution of Collateral) and 1(Possession, Use and Release of Collateral);
- (2) enter into a binding commitment to apply all or part of the Total Loss Event Proceeds pursuant to sub-paragraph (b) above or make a determination in good faith to potentially apply all or a portion of such Net Proceeds towards the exercise of a Vessel Purchase Option Contract, provided that such binding commitment or determination shall be treated as a permitted application of the Total Loss Event Proceeds from the date thereof until the earlier of (x) the date on which such acquisition or expenditure is consummated, (y) the date such Vessel Purchase Option Contract terminates or expires and (z) the 365th day following the expiration of the aforementioned 365-day period; and/or
- (3) any combination of the foregoing

provided that during such 365-day period (or any extension thereof pursuant to sub-paragraph (2) above) and pending the final application of any Total Loss Event Proceeds in accordance with this paragraph, such Total Loss Event Proceeds shall be deposited in a Collateral Account charged with a first priority Lien in favour of the Finance Parties and constitute Collateral, subject to release in accordance with the provisions of the Intercreditor Agreement.

Notwithstanding the foregoing, the Borrower or any Guarantor may elect to repay or redeem Indebtedness or make an acquisition or otherwise apply cash in accordance with sub-paragraph (1), (2) or (3) above prior to receiving the Total Loss Event Proceeds attributable to any Total Loss Event and deem the amount of any such repayment, investment, acquisition or cash payment as an application of Total Loss Event Proceeds pursuant to and in accordance with such sub-paragraph s.

- 5.2 Any Total Loss Event Proceeds that are not applied or invested as provided in paragraph 5.1 will constitute “Excess Loss Proceeds,” and, subject to Clause 6.3 (*Disposal Proceeds*) and Clause 16.17 (*Note Purchase Condition*) when the aggregate amount of Excess Loss Proceeds exceeds \$25,000,000, the amount of such Excess Loss Proceeds shall be applied to make a Total Loss Event Offer in accordance with section 4.21 of the Senior Secured Note Indenture.

6. ***Incurrence of Indebtedness***

- 6.1 The Borrower will not, and will not permit any of its Subsidiaries to, directly or indirectly, create, incur, or permit to subsist (collectively, “incur”) any Indebtedness.
- 6.2 Paragraph 6.1 will not prohibit the incurrence of any of the following items of Indebtedness (collectively, “Permitted Debt”):
- (1) any Indebtedness outstanding on the Utilization Date arising under (a) the Senior Secured Notes Indenture and/or the Note Purchase Agreement or (b) this Agreement;
 - (2) the Existing Indebtedness, *provided* that it is refinanced (and any security and guarantee is released) substantially concurrently with drawdown under this Agreement;
 - (3) any Indebtedness between or among the Borrower and any of its Subsidiaries (including, without limitation, any intra-group loans to the Guarantors from the Borrower), *provided* that any Indebtedness having the Borrower or a Guarantor as debtor and a Subsidiary that is not a Guarantor or the Borrower as creditor shall, pursuant to and to the extent provided in the Intercreditor Agreement or any Additional Intercreditor Agreement, be subordinated to the Finance Documents and any Additional Intercreditor Agreement and the Guarantees (as applicable) and may only be serviced so long as no Event of Default has occurred and is continuing;
 - (4) obligations under any derivative transactions related to the Borrower and its Subsidiaries’ hedging made on a non-speculative basis;
 - (5) the incurrence of Indebtedness, or any recourse liability owing to any financial institution, by the Borrower or any of its Subsidiaries in respect of completion, bid, appeal, surety or performance bonds, advance payment guarantees and other guarantees or letters of credit issued in the ordinary course of business of the Borrower or relevant Subsidiary, *provided* that any incurrence of Indebtedness by a Guarantor pursuant to this sub-paragraph (5) shall only be in respect of the relevant Vessel of such Guarantor;

- (6) any Attributable Indebtedness and/or secured Indebtedness incurred by a Subsidiary (other than a Guarantor) in connection with such Subsidiary's acquisition of, or investment in, a vessel (or entity owning such vessel or participation in a joint venture owning a vessel) from an entity not being the Borrower or a Subsidiary (such Indebtedness, a "New Vessel Financing"), *provided* that:
- (i) the ratio of the principal amount of the New Vessel Financing relative to the Fair Market Value of such acquisition or investment at the time of obtaining such New Vessel Financing does not exceed 70%;
 - (ii) such Indebtedness may be guaranteed by the Borrower; and
 - (iii) such Indebtedness may only be secured by a mortgage over the acquired vessel, a pledge or charge of the shares of the Subsidiary owning such vessel and other security over assets, rights, bank accounts and contracts of the Subsidiary owning such vessel comparable in nature to the Collateral (but, for the avoidance of doubt, no such Indebtedness may be secured on any Collateral).
- (7) any Indebtedness under any pension and Tax liabilities incurred in the ordinary course of business or the incurrence by the Borrower or any of its Subsidiaries of Indebtedness in respect of workers' compensation claims, unemployment insurance, health, disability and other employee benefits or property, casualty or liability insurance, self-insurance obligations or bankers' acceptances;
- (8) senior unsecured Indebtedness of the Borrower or any of its Subsidiaries (other than a Guarantor) maturing after the final maturity of the Notes and not otherwise permitted by this covenant which in the aggregate shall not exceed \$100.0 million for the Borrower and its Subsidiaries as a whole at any time;
- (9) senior unsecured Indebtedness of the Borrower or any of its Subsidiaries (other than a Guarantor) not otherwise permitted by this covenant which in aggregate shall not exceed \$5.0 million for the Borrower and its Subsidiaries as a whole at any time;
- (10) Permitted Refinancing Indebtedness in respect of Indebtedness (other than intercompany Indebtedness) of the Borrower or any of its Subsidiaries that was permitted by the Senior Secured Notes Indenture to be incurred under (1) or (6) of this paragraph;
- (11) (a) the guarantee (whether or not secured) by the Borrower or any Subsidiary (other than a Guarantor) of Indebtedness of the Borrower or any Subsidiary that was permitted to be incurred by another provision of this covenant; *provided* that if the Indebtedness being guaranteed is contractually subordinated to the notes or a Guarantee, then the guarantee shall be contractually subordinated to the same extent as the Indebtedness guaranteed and (b) guarantees by the Borrower or any Guarantor in respect of Permitted Refinancing Indebtedness incurred under sub-paragraph (10) of this paragraph in respect of any Senior Secured Notes or this Agreement;
- (12) the incurrence by the Borrower or any of its Subsidiaries of Indebtedness arising from the honouring by a bank or other financial institution of a check, draft or similar instrument inadvertently drawn against insufficient funds, so long as such Indebtedness is covered within 30 business days;
- (13) the incurrence by the Borrower or any of its Subsidiaries of Indebtedness consisting of guarantees, earn-outs, indemnities, contribution, obligations in respect of purchase price adjustments or, in each case, similar obligations, in connection with the disposition or acquisition of assets, including, without limitation, shares of Capital Stock;

- (14) the incurrence by the Borrower or any of its Subsidiaries of Indebtedness constituting reimbursement obligations with respect to letters of credit so long each such obligation is satisfied within 30 days of the incurrence thereof;
 - (15) the incurrence by the Borrower or any of its Subsidiaries of Indebtedness in the form of customer deposits and advance payments received in the ordinary course of a Permitted Business from customers for services purchased in the ordinary course of a Permitted Business;
 - (16) Indebtedness of the Borrower or any of its Subsidiaries arising from customary cash management services or in connection with any automated clearinghouse transfer of funds in the ordinary course of a Permitted Business; and
 - (17) Indebtedness of a Person acquired by the Borrower or a Subsidiary or merged, consolidated, amalgamated or liquidated with or into a Subsidiary or the Borrower, *provided* that such Indebtedness was incurred or issued, as applicable, prior to such transaction and not in connection with or in contemplation of such transaction; *provided further* that either (a) at the time of entry into definitive documentation with respect to such transaction, the ratio of the principal amount of the Total Debt of such Person to the Fair Market Value of such Person does not exceed 80% or (b) the ratio of the principal amount of the Total Debt relative to the Adjusted EBITDA of the Borrower or the Person formed by or surviving such transaction on a pro forma basis will be no greater than the ratio of the Borrower was prior to such transaction.
- 6.3 For purposes of determining compliance with this paragraph 6, in the event that an item of proposed Indebtedness meets the criteria of more than one of the categories of Permitted Debt described above, the Borrower, in its sole discretion, may divide and/or classify such item of Indebtedness (or any portion thereof) on the date of its incurrence, or later redivide and/or reclassify, all or a portion of such item of Indebtedness in any manner that complies with this paragraph 6.
- 6.4 The accrual of interest, the accrual of dividends, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, and the payment of dividends on Disqualified Stock or preferred stock in the form of additional shares of the same class of Disqualified Stock or preferred stock, as the case may be, will not be deemed to be an incurrence of Indebtedness or an issuance of Disqualified Stock or preferred stock for purposes of this paragraph 6.
- 6.5 The amount of any Indebtedness outstanding as of any date will be:
- (1) the accreted value of such Indebtedness, in the case of any Indebtedness issued with original issue discount;
 - (2) the principal amount of the Indebtedness, in the case of any other Indebtedness; and
 - (3) in respect of Indebtedness of another Person secured by a Lien on the assets of the specified Person, the lesser of:
 - (A) the Fair Market Value of such assets at the date of determination; and

(B) the amount of the Indebtedness of the other Person that is secured by such assets.

- 6.6 For purposes of determining compliance with this paragraph 6, (i) Indebtedness of a Person acquired by or merged into the Borrower or its Subsidiaries or that otherwise becomes a Subsidiary of the Borrower shall be deemed to have been incurred by the Borrower or its Subsidiaries, as the case may be, at the time an acquired Person becomes such a Subsidiary of the Borrower (or is merged into the Borrower or such a Subsidiary) or at the time of the acquisition of assets, as the case may be, (ii) the maximum amount of Indebtedness that the Borrower and its Subsidiaries may incur pursuant to this paragraph 6 shall not be deemed to be exceeded, with respect to any outstanding Indebtedness due solely to the result of fluctuations in the exchange rates of currencies and (iii) the outstanding principal amount of any particular Indebtedness shall be counted only once and any other obligations arising under any guarantee, Lien, letter of credit or similar instrument supporting such Indebtedness permitted to be incurred under this paragraph 6 shall not be double counted. In addition, in connection with the incurrence of any Indebtedness pursuant to paragraph 6.1, the Borrower may elect, pursuant to an Officer's Certificate delivered to the Facility Agent, to treat all or any portion of the commitment under any Indebtedness which is to be incurred, as being incurred as of the calculation date and any subsequent incurrence of Indebtedness under such commitment that was so treated shall not be deemed, for purposes of this calculation, to be an incurrence of additional Indebtedness.
- 6.7 For purposes of determining compliance with any U.S. Dollar-denominated restriction on the incurrence of Indebtedness, the U.S. dollar-equivalent principal amount of Indebtedness denominated in a different currency shall be utilized, calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred; *provided, however*, that (i) if such Indebtedness denominated in non-dollar currency is subject to a Currency Exchange Protection Agreement with respect to U.S. dollars, the amount of such Indebtedness expressed in U.S. dollars will be calculated so as to take account of the effects of such Currency Exchange Protection Agreement; and (ii) the dollar-equivalent of the principal amount of any such Indebtedness outstanding on the Utilization Date shall be calculated based on the relevant currency exchange rate in effect on the Utilization Date. The principal amount of any refinancing Indebtedness incurred in the same currency as the Indebtedness being refinanced will be the dollar-equivalent of the Indebtedness refinanced determined on the date such Indebtedness was originally incurred, except that to the extent that:
- (1) such dollar-equivalent was determined based on a Currency Exchange Protection Agreement, in which case the Permitted Refinancing Indebtedness will be determined in accordance with the preceding sentence; and
 - (2) the principal amount of the refinancing Indebtedness exceeds the principal amount of the Indebtedness being refinanced, in which case the dollar-equivalent of such excess will be determined on the date such refinancing Indebtedness is being incurred.

The principal amount of any Indebtedness incurred to refinance other Indebtedness, if incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such Permitted Refinancing Indebtedness is denominated that is in effect on the date of such refinancing.

6.8 For the avoidance of doubt, no other Indebtedness may be secured on the Collateral on a pari passu basis.

7. **Restricted Payments**

- 7.1 The Borrower will not, and will not permit any of its Subsidiaries to, directly or indirectly, take any of the following actions or payments, in each case whether in cash or in kind (including, without limitation, the entry into any total return swaps or instruments with similar effect) (collectively referred to as “Restricted Payments”):
- (i) declare or make any dividend payment or other equity or capital distributions or payments to any of their respective shareholders;
 - (ii) make any loans to, or make any payments on loans from, any of their respective shareholders;
 - (iii) repurchase shares (including the Existing Preferred Shares) from any of their respective shareholders;
 - (iv) make any voluntary or optional principal payment on or with respect to, or purchase, redeem, defease or otherwise acquire or retire for value, any Subordinated Indebtedness of the Borrower or any Guarantor other than at the scheduled maturity of such Subordinated Indebtedness;
 - (v) provide any Financial Support, other than Permitted Financial Support; or
 - (vi) make any Restricted Transfers.
- 7.2 This covenant shall not prohibit the following actions or payments (“Permitted Payments”), *provided* that no Event of Default shall have occurred and be continuing or would occur as a consequence of such Permitted Payments:
- (1) any declaration or payment of dividends or distributions in respect of the Borrower’s Existing Preferred Shares outstanding on the Utilization Date, *provided* that the aggregate amount of any such dividends or distributions per year shall not exceed 8.75% of the stated liquidation preference of such Existing Preferred Shares;
 - (2) beginning January 1, 2021, any declaration or payment of dividends or distributions or repurchases in respect of the Borrower’s Common Equity in an aggregate amount per year equal to 50% of the consolidated net profit after taxes of the Borrower for the preceding financial year based on the audited annual accounts for such preceding financial year, *provided* that any unutilized portion may be carried forward to succeeding financial years;
 - (3) any declaration or payment of dividends or distributions or repurchases in respect of the Borrower’s Common Equity or any other instrument accounted for as equity not to exceed the aggregate amount contributed to the Borrower’s equity after the Utilization Date, excluding any amounts used to make Permitted Transfers pursuant to sub-paragraph (2)(b) of the definition thereof;
 - (4) any declaration or payment of dividends or distributions by a Subsidiary in respect of its Capital Stock to, or repurchases by a Subsidiary of its Capital Stock from, (i) the Borrower or another Subsidiary or (ii) to the extent such Subsidiary is not wholly owned, its shareholders on a *pro rata* basis;
 - (5) the payment of any dividend or other distribution within 60 days after the date of declaration of such dividend or other distribution, if at the date of declaration, such payment would have complied with the provisions of the Senior Secured Note Indenture;

- (6) the payment, defeasance, redemption, repurchase or other acquisition or retirement for value of Subordinated Indebtedness of the Borrower or any of its Subsidiaries with the net proceeds from a substantially concurrent incurrence of Permitted Refinancing Indebtedness or issuance and sale of, or in exchange for, Qualified Equity Interests;
- (7) the declaration and payment of cash dividends to holders of any class or series of Disqualified Stock of the Borrower or preferred stock of a Subsidiary, in each case, issued after the Utilization Date in accordance with the covenant described under paragraph 6;
- (8) (i) any issuance of Capital Stock by the Borrower to any Subsidiary or by any Subsidiary to the Borrower or another Subsidiary and (ii) inter-company loans or other Indebtedness owed by the Borrower or any Subsidiary to the Borrower or any Subsidiary, in each case, in compliance with the covenant described under paragraph 6 and any actions or payments thereon;
- (9) the repurchase, redemption or other acquisition or retirement for value of any Qualified Equity Interests of the Borrower or any of its Subsidiaries held by any current or former officer, director, consultant or employee of the Borrower or any of its Subsidiaries (or heirs or other permitted transferees thereof); provided that the aggregate price paid for all such repurchased, redeemed, acquired or retired Equity Interests may not exceed \$1.0 million (determined as of the beginning of such calendar year) in any calendar year; provided, further, that such amount may be increased by an amount not to exceed:
 - (a) the cash proceeds from the sale of Qualified Equity Interests of the Borrower to directors, officers, employees or consultants of the Borrower or any of its Subsidiaries that occurs after the Utilization Date, plus
 - (b) the cash proceeds of key-man life insurance policies received by the Borrower or any of its Subsidiaries after the Utilization Date;

provided that to the extent that any portion of the unused amounts permitted to be paid pursuant to this sub-paragraph is not utilized in any year, such unused portion may be carried forward and be utilized in one or more subsequent years;
- (10) the repurchase of Equity Interests deemed to occur upon the exercise of options, warrants or other convertible securities to the extent such Equity Interests represent a portion of the exercise price of those options, warrants or other convertible securities and cash payments in lieu of the issuance of fractional shares in connection with the exercise of options, warrants or other convertible securities;
- (11) payments made to purchase, redeem, defease or otherwise acquire or retire for value any Subordinated Indebtedness of the Borrower or any of its Subsidiaries (i) following the occurrence of a Change of Control, at a purchase price not greater than 101% of the outstanding principal amount (or accreted value, in the case of any debt issued at a discount from its principal amount at maturity) thereof, plus accrued and unpaid interest, if any, after the Borrower and its Subsidiaries have satisfied their obligations with respect to a Change of Control Offer set forth under clause 10 of the Senior Secured Notes Indenture “—Repurchase at the Option of Holders—Change of Control” or (ii) with the Excess Collateral Proceeds of one or more Asset Sales, at a purchase price not greater than 100% of the principal amount (or accreted value, in the case of any debt issued at a discount from its principal amount at maturity) thereof, plus accrued and unpaid interest, if any, after the Borrower and its Subsidiaries have satisfied their obligations with respect to such Excess Collateral Proceeds set forth under clause 10 of the Senior Secured Notes Indenture “—Repurchase at the Option of Holders—Asset Sales Involving Certain Collateral” to the extent that such Subordinated Indebtedness is required to be repurchased or redeemed pursuant to the terms thereof as a result of such Change of Control or Asset Sale;

- (12) any payments (including of principal, interest or otherwise) on any loans or other debt arrangements provided to the Borrower or any Subsidiary by any of their Affiliates and incurred by the Borrower or any Subsidiary in compliance with the other provisions of the Senior Secured Notes Indenture for purposes of financing the acquisition of a Vessel; or
- (13) obligations with respect to Restricted Payments held by a Person at the time such Person becomes a Subsidiary of the Borrower or is merged with or consolidated into the Borrower or a Subsidiary of the Borrower, provided that at the time of entry into definitive documentation relating to the transaction, such Person had common or preferred equity publicly listed on an internationally recognized stock exchange, and, with respect to such publicly listed equity, had a market capitalization greater than \$500.0 million; provided further that such obligations (i) do not relate to special dividends and (ii) existed prior to such transaction and were not created in connection with, or in contemplation of, such transaction.

The amount of all Restricted Payments (other than cash and Cash Equivalents) will be the Fair Market Value on the date of the Restricted Payment of the asset(s) or securities proposed to be transferred or issued by the Borrower or such Subsidiary, as the case may be, pursuant to the Restricted Payment.

For purposes of determining compliance with this covenant, in the event that a Restricted Payment permitted pursuant to this covenant or a Permitted Financial Support meets the criteria of more than one of the categories of Permitted Payment described in sub-paragraph s (1) through (13) above or one or more sub-paragraph s of the definition of "Permitted Financial Support," the Borrower shall be permitted to classify such Restricted Payment or Permitted Financial Support (or any portion thereof) on the date it is made, or later reclassify, all or a portion of such Restricted Payment or Permitted Financial Support, in any manner that complies with this covenant, and such Restricted Payment or Permitted Financial Support shall be treated as having been made pursuant to only one of such sub-paragraphs of this covenant or of the definition of "Permitted Financial Support."

8. ***Liens***

The Borrower will not, and will not permit any Subsidiary to, directly or indirectly, create, permit to subsist or allow to exist any Lien on any asset or revenue of the Borrower or any Subsidiary, whether owned on the date of this Agreement or thereafter acquired, except Permitted Liens.

9. ***Dividend and Other Payment Restrictions Affecting Subsidiaries***

- 9.1 The Borrower and the Guarantors will not, directly or indirectly, create or permit to exist any contractual restriction on any Guarantor's ability to:
- (1) pay dividends or make any other distributions on its Capital Stock to the Borrower, or pay any Indebtedness owed to the Borrower;
 - (2) make loans or advances to the Borrower; or
 - (3) transfer any of its properties or assets to the Borrower.

- 9.2 However, the preceding restrictions will not apply to encumbrances or restrictions existing under or by reason of:
- (1) agreements, including, without limitation, those governing Existing Indebtedness (including under the Finance Documents), as in effect on the Utilization Date and any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of those agreements; *provided* that the amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are not materially more restrictive, taken as a whole, with respect to such dividend and other payment restrictions than those contained in those agreements on the Utilization Date;
 - (2) the Senior Secured Note Indenture, the Senior Secured Notes, the Senior Secured Note Guarantees and any Additional Intercreditor Agreement;
 - (3) applicable law, rule, regulation or order or governmental license, permit or concession;
 - (4) any instrument governing Indebtedness or Equity Interests of a Person acquired by the Borrower or any of its Subsidiaries as in effect at the time of such acquisition, which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person, or the property or assets of the Person, so acquired; *provided* that, in the case of Indebtedness, such Indebtedness was permitted by the terms of this Agreement to be incurred;
 - (5) Permitted Refinancing Indebtedness; *provided* that the restrictions contained in the agreements governing such Permitted Refinancing Indebtedness are not materially more restrictive, taken as a whole, than those contained in the agreements governing the Indebtedness being refinanced;
 - (6) Liens and agreements related thereto that were permitted to be incurred under the provisions of paragraph 8 that limit the right of the debtor to dispose of the assets subject to such Liens;
 - (7) provisions contained in agreements governing Indebtedness of the Borrower or Subsidiary incurred subsequent to the Utilization Date pursuant to the provisions of paragraph 6 “— Incurrence of Indebtedness” (i) in respect of the subordination provisions, if any, of such Indebtedness, (ii) if the encumbrances and restrictions contained in any such Indebtedness taken as a whole are not materially less favourable to the Finance Parties than the encumbrances and restrictions contained in the Senior Secured Notes Indenture or that may be contained in the Intercreditor Agreement or in any agreement governing Indebtedness in accordance with this covenant or (iii) if such encumbrance or restriction is customary in comparable financings (as determined in good faith by the Borrower) and the Borrower determines in good faith that such encumbrance or restriction will not materially adversely affect the ability of the Borrower and its Subsidiaries, taken as a whole, to make principal or interest payments on the Senior Secured Notes or under this Agreement;
 - (8) customary provisions restricting assignments, subletting or other similar transfers in contracts, licenses and other agreements (including, without limitation, leases and agreements relating to intellectual property) entered into in the ordinary course of a Permitted Business;
 - (9) any agreement for the sale or other disposition of a Subsidiary or an asset that restricts distributions by that Subsidiary or transfers of such asset pending the sale or other disposition;

- (10) provisions limiting the disposition or distribution of assets or property (including Capital Stock of any Person in which the Borrower has an investment) in joint venture agreements, stockholder agreements, partnership agreements, limited liability company operating agreements, asset sale agreements, sale-leaseback agreements, stock sale agreements and other similar agreements, which limitation is applicable in all material respects only to the assets or property that are the subject of such agreements;
- (11) restrictions on cash or other deposits or net worth imposed under contracts entered into in the ordinary course of a Permitted Business; and
- (12) customary provisions restricting the disposition of real property interests set forth in any easements or other similar agreements or arrangements of the Borrower or any Subsidiary;

10. **Arm's Length Transactions**

10.1 The Borrower will not, and will not permit any of its Subsidiaries to, enter into any material transaction with any Person, except on arm's length terms; provided, however, that this covenant shall not apply to any intercompany transactions between (a) the Borrower and any of its Subsidiaries or (b) any Subsidiaries of the Borrower. For purposes of this paragraph 10, a "material transaction" means any transaction, or series of related transactions, involving aggregate payments or consideration in excess of \$2,000,000.

10.2 **Guarantor Ownership**

The Borrower shall ensure that each Guarantor and each other Subsidiary that owns a Vessel remains a direct Wholly Owned Subsidiary of the Borrower, *provided* that the Borrower may sell or dispose of all of the Equity Interests of a Guarantor or such Subsidiary in one or more transactions that comply with paragraph 11 ("Merger, Consolidation or Sale of Assets").

10.3 **Charters**

Each Guarantor shall (i) perform and observe in all material respects all of the covenants and agreements applicable to it contained in any Charter, (ii) take all reasonable actions to prevent the termination of any such Charter other than through the passage of time or through amendments negotiated on arm's length terms and (iii) take any reasonable action as may be reasonably necessary to promptly enforce its rights and to collect any and all sums due to it under such Charter, unless where failure to do so will not materially impact the ability of the Borrower and the Guarantors (taken as a whole) to fulfil their obligations under the Finance Documents.

The Borrower and the Guarantors shall not (i) consent or agree to any waiver or amendment of any Charter that would have a material adverse effect on their ability to fulfil their obligations under the Finance Documents or (ii) agree to or permit the assignment of any rights or the delegation of any obligations under the Charter (unless such assignment or delegation is permitted under the terms of the Charter). For the avoidance of doubt, the foregoing restrictions on amendments shall not apply to any extension, "amend and extend" or modification or series of modifications of any of the Charters on arm's-length terms available at the date of such amendment, extension and/or modification, assessed on a risk-adjusted basis.

10.4 **Insurance**

Each Guarantor shall maintain with reputable insurance companies, funds or underwriters adequate insurance or captive arrangements with respect to its properties and business against such liabilities, casualties and contingencies and of such types and in such amounts as are consistent with prudent business practice in its relevant jurisdiction and industry.

The Vessels shall be adequately insured against such risks and in such amounts as per industry standards and otherwise reasonably required by and placed or entered with such reputable insurers, brokers or protection and indemnity (P&I) clubs on an agreed value basis, including without limitation (i) war risk (if relevant in respect of the Vessel's voyage), (ii) hull and machinery (and, if relevant, hull interest and/or freight interest), (iii) third party liability insurance in accordance with industry standards and (iv) any applicable additional insurance required under any law or the relevant charter contract, but for the avoidance of doubt not including loss of hire.

11. **Merger, Consolidation or Sale of Assets**

(a) The Borrower may not, directly or indirectly: (1) consolidate, amalgamate or merge with or into another Person (whether or not the Borrower is the surviving Person); or (2) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of the Borrower and its Subsidiaries taken as a whole, in one or more related transactions, to another Person, unless (subject, in the case of (1) of this part (a), to Clause 14.24(e) (*Insolvency*):

- (1) either: (a) the Borrower is the surviving Person and the laws of all relevant jurisdictions recognise that the Borrower as surviving Person automatically and without any action on the part of any Person is bound by all the obligations of the Finance Documents and any Additional Intercreditor Agreement; or (b) the Person formed by or surviving any such consolidation, amalgamation or merger (if other than the Borrower) or to which such sale, assignment, transfer, conveyance or other disposition has been made (x) is a corporation, limited liability company, trust or limited partnership organized or existing under the laws of an Eligible Jurisdiction, and (y) expressly assumes all the obligations of the Borrower under the Finance Documents and any Additional Intercreditor Agreement;
- (2) immediately after giving effect to such transaction, no Default or Event of Default exists; and
- (3) either (a) the ratio of the principal amount of the Total Debt to the Adjusted EBITDA of the Borrower or the Person formed by or surviving any such consolidation, amalgamation or merger (if other than the Borrower), or to which such sale, assignment, transfer, conveyance or other disposition has been made, will, on the date of such transaction, after giving pro forma effect thereto and to any related financing transactions as if the same had occurred at the beginning of the applicable four-quarter period, no greater than such ratio was prior to such transaction or (ii) solely in the case of a transaction that is a consolidation, amalgamation or merger, at the time of entry into definitive documentation with respect to such transaction (A) the ratio of the principal amount of the Total Debt of such Person to the Fair Market Value of such Person does not exceed 80% or (B) such Person (i) has common or preferred equity publicly listed on an internationally recognised stock exchange and (ii) with respect to such publicly listed equity, has a market capitalisation greater than US\$500,000,000.

In addition, the Borrower may not, directly or indirectly, lease all or substantially all of its properties or assets, in one or more related transactions, to any other Person; *provided* that the foregoing shall not prohibit the chartering out of Vessels in the ordinary course of a Permitted Business.

For purposes of the foregoing, the transfer (by lease, assignment, sale or otherwise, in a single transaction or series of transactions) of all or substantially all of the properties or assets of one or more Subsidiaries, the Equity Interests of which constitute all or substantially all of the properties and assets of the Borrower, will be deemed to be the transfer of all or substantially all of the properties and assets of the Borrower.

- (b) Subject to Clause 14.24(e) (*Insolvency*) the Borrower will not permit any Guarantor to, directly or indirectly, consolidate, amalgamate or merge with or into or acquire another Person (whether or not the Borrower or such Guarantor is the surviving Person) unless:
- (1) subject to the guarantee release provisions described under paragraph 12 below, such Guarantor is the surviving Person and the laws of all relevant jurisdictions recognise that the Guarantor as surviving Person automatically and without any action on the part of any Person is bound by all the obligations of the Finance Documents and any Additional Intercreditor Agreement or the Person formed by or surviving any such consolidation, amalgamation, merger or acquisition (if other than the Borrower or an Obligor) and expressly assumes all the obligations of such Guarantor under the Finance Documents and any Additional Intercreditor Agreement; and
 - (2) immediately after such transaction, no Default or Event of Default exists.
- (c) Subject to Clause 14.24(e) (*Insolvency*), this paragraph 11 will not apply to any such consolidation, amalgamation or merger of, or any such sale, assignment, transfer, conveyance or other disposition of all or substantially all of the properties or assets of the Borrower or a Guarantor or a Wholly Owned Subsidiary of such Person with or to an Affiliate solely for the purpose, and with the effect, of reorganizing the Borrower or a Guarantor or a Wholly Owned Subsidiary, as the case may be, in an Eligible Jurisdiction. In addition, nothing in this paragraph 11 will prohibit any Subsidiary from consolidating or amalgamating with, merging with or into or conveying, transferring or leasing, in one transaction or a series of transactions, all or substantially all of its assets to another Subsidiary or reconstituting itself in another jurisdiction for the purpose of reflagging a vessel.
- (d) Upon any consolidation, amalgamation or merger, or any sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the assets of the Borrower or another Obligor in accordance with this paragraph 11, the successor Person formed by such consolidation or into or with which the Borrower or such other Obligor, as applicable, is merged or to which such sale, assignment, transfer, lease, conveyance or other disposition is made shall, subject to Clause 26 (*Changes to the Obligors*) of this Agreement, succeed to, and be substituted for (so that from and after the date of such consolidation, merger, sale, lease, conveyance or other disposition, the provisions of this Agreement referring to the Borrower or such other Obligor, as applicable, shall refer instead to the successor Person, as applicable, and not to the Borrower or such other Obligor, as applicable, and such predecessor Person will automatically be released and discharged from its obligations under the Finance Documents), and may exercise every right and power of the Borrower or such other Obligor, as applicable, under the Finance Documents with the same effect as if such successor Person, as applicable, had been named as the Borrower or an Obligor, as applicable, herein; *provided* that the predecessor Borrower shall not be relieved from the obligation to pay the principal of and interest on borrowings incurred under this Agreement or its obligations under Clause 22 (*Indemnities and Break Costs*), except in the case of a sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the Borrower's assets that meets the requirements of this paragraph 11.

12. **Release of Guarantees**

- 12.1 The guarantee of a Guarantor will automatically and unconditionally (without any further action on the part of any Person) be released:
- (1) in connection with any sale or other transfer of all or substantially all of the assets of that Guarantor (including by way of merger, consolidation or amalgamation) to a Person that is not (either before or after giving effect to such transaction) the Borrower or a Subsidiary of the Borrower, if the sale or other disposition does not violate any applicable provisions of the Finance Documents;
 - (2) in connection with any sale or other transfer of a majority of the Capital Stock of that Guarantor to a Person that is not (either before or after giving effect to such transaction) the Borrower or a Subsidiary of the Borrower, if (x) such Guarantor would no longer constitute a "Subsidiary" under this Agreement and (y) the sale or other disposition does not violate any applicable provisions of the Finance Documents;
 - (3) substantially concurrently with the substitution of Vessels of another Subsidiary for all of the Vessels of that Guarantor in accordance with paragraph 2;
 - (4) in the case of a Subsidiary that has voluntarily acceded to the Finance Documents as a Guarantor, upon notice to the Facility Agent by the Borrower of the designation of such Guarantor as non-Guarantor Subsidiary if all transactions entered into by such Subsidiary while a Guarantor would be permitted under this Agreement at the time its obligations under the Finance Documents are released (and for such purpose all such transactions shall be deemed to have been entered into at the time of such release);
 - (5) upon satisfaction and discharge or the Indebtedness under the Finance Documents; and
 - (6) in accordance with an enforcement action pursuant to the provisions of the Intercreditor Agreement and any Additional Intercreditor Agreement.
- 12.2 Upon receipt by the Security Agent and the Facility Agent of an Officer's Certificate and an Opinion of Counsel each stating that all conditions precedent provided in the Finance Documents relating to the release of the guarantee have been complied with, the Facility Agent and the Security Agent shall take all actions, reasonably requested by such Guarantor including the granting of releases or waivers under the Intercreditor Agreement or any Additional Intercreditor Agreement, that may be necessary to effectuate any release of a guarantee in accordance with these provisions, subject to customary protections and indemnifications. Each of the releases set forth above shall be effected by trustee and the Security Agent without the consent of the Finance Parties or any other action or consent on the part of the Facility Agent or the Security Agent. For the avoidance of doubt, the foregoing provisions shall not permit the Security Agent to release or grant any waivers or otherwise take any action with respect to releasing any guarantees or the Transaction Security to the extent in favour of any Secured Party other than the Finance Parties (and any such release, waiver or action with respect to any such other Secured Party shall be governed by the Debt Documents applicable to such secured parties, the Intercreditor Agreement and any Additional Intercreditor Agreement).

13. **Additional Intercreditor Agreements**

At the request of the Borrower, in connection with the incurrence by the Borrower or its Subsidiaries of any Permitted Refinancing Indebtedness in compliance with the Finance Documents, the Borrower, the relevant Subsidiaries, the Facility Agent and the Security Agent shall enter into with the holders of such Indebtedness (or their duly authorized representatives) an intercreditor agreement (an "Additional

Intercreditor Agreement”) or a restatement, amendment or other modification of the existing Intercreditor Agreement on substantially the same terms as the Intercreditor Agreement (or terms not materially less favorable to the Finance Parties), including containing substantially the same terms with respect to release of guarantees and priority and release of the Security Interests under the Security Documents; provided that such Additional Intercreditor Agreement will not impose any personal obligations on the Facility Agent or Security Agent or, in the opinion of the Facility Agent or Security Agent, as applicable, adversely affect the rights, duties, liabilities or immunities of the Facility Agent or Security Agent under the Intercreditor Agreement.

To the extent required under any Intercreditor Agreement or Additional Intercreditor Agreement, the Facility Agent (and Security Agent, if applicable) shall consent on behalf of the Finance Parties to the payment, repayment, purchase, repurchase, defeasance, acquisition, retirement or redemption of any obligations subordinated to the Finance Documents thereby; *provided, however*, that such transaction would comply with paragraph 7. In connection with providing any such consent, the Facility Agent and the Security Agent shall be entitled to receive and may conclusively rely upon, an Officer’s Certificate and an Opinion of Counsel each stating that all conditions precedent provided in the Intercreditor Agreement, Additional Intercreditor Agreement (if applicable) and the Finance Documents relating to such consent have been complied with.

14. **Certain Definitions**

Set forth below are certain defined terms used in this **Error! Reference source not found. (Error! Reference source not found.)**. For the purposes of this Schedule 13 only, if there is any conflict between the defined terms used in this Schedule 13 and elsewhere in this Agreement, the defined terms set forth below will prevail.

“**Additional Intercreditor Agreement**” means any intercreditor agreement entered into by, amongst others, the Borrower and the Facility Agent in respect of certain Indebtedness permitted to be incurred under this Agreement (as more particularly described in paragraph 13 above and the Senior Secured Note Indenture).

“**Adjusted EBITDA**” means, with respect to any specified Person or Vessel, the net income (loss) before interest income and expense including amortization of deferred financing costs, realized and unrealized gain (loss) on interest rate derivatives, earnings allocated to preferred shares, income taxes, depreciation, amortization and impairment charges of such Person on a consolidated basis or attributable to such Vessel (as applicable) for the most recently ended four-quarter period for which internal financial statements are available immediately preceding the calculation date or as otherwise specified.

“**Affiliate**” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, “control,” as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise. For purposes of this definition, the terms “controlling,” “controlled by” and “under common control with” have correlative meanings.

“**Asset Sale**” means:

- (1) the sale, lease, conveyance or other disposition of any assets; and
- (2) the issuance by any of the Borrower’s Subsidiaries of any Equity Interest of such Subsidiary or the sale by the Borrower or any Subsidiary of Equity Interests in any Subsidiaries.

Notwithstanding the preceding, none of the following items will be deemed to be an Asset Sale:

- (1) a sale, lease, conveyance, transfer or other disposition of assets between or among the Borrower and/ or its Subsidiaries; *provided* that if such sale, lease, conveyance, transfer or other disposition involves Collateral, such exemption shall only be available if such transaction is between or among the Borrower and/or one or more Guarantors;
- (2) an issuance, sale, transfer or other disposition of Equity Interests by a Subsidiary of the Borrower to the Borrower or to another Subsidiary of the Borrower;
- (3) the chartering on arm's length terms, lease, assignment or sublease of any real or personal property including, but not limited, to a Vessel, in the ordinary course of a Permitted Business;
- (4) any sale or disposition deemed to occur in connection with creating, granting or perfecting a Lien not otherwise prohibited by this Agreement;
- (5) sale of assets received upon the foreclosure of a Lien;
- (6) the surrender or waiver of contract rights or settlement, release or surrender of a contract, tort or other litigation claim in the ordinary course of a Permitted Business, including the termination of a Charter in accordance with its terms;
- (7) foreclosures, condemnations or any similar actions on assets;
- (8) the disposition of receivables in connection with the compromise, settlement or collection thereof in the ordinary course of business or in bankruptcy or similar proceedings and exclusive of factoring or similar arrangements;
- (9) the issuance of preferred stock or Disqualified Stock issued in compliance with the covenant described under paragraph 6 ("Incurrence of Indebtedness");
- (10) a Total Loss Event;
- (11) the sale, conveyance or other disposition of all or substantially all of the assets of the Borrower and its Subsidiaries taken as a whole (which, for the avoidance of doubt, will be governed by the provisions of clause 10 of the Senior Secured Notes Indenture "Repurchase at Option of Holders", and/or the provisions of paragraph 11 ("Merger, Consolidation or Sale of Assets") and not by the provisions of the Asset Sale covenant (paragraph 4);
- (12) The sale or disposal of cash or Cash Equivalents;
- (13) the unwinding of any Hedging Obligations; and
- (14) a Permitted Transfer.

"Attributable Indebtedness" means the amount of Indebtedness in respect of the leasing to the Borrower or a Subsidiary of the Borrower of any property that results in a Capital Lease Obligation as determined in accordance with the definition of "Capital Lease Obligation."

"beneficial owner" has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act. The term "beneficial ownership" has a correlative meaning.

“Board of Directors” means:

- (1) with respect to a corporation, the board of directors of the corporation or, other than for purposes of the definition of “Change of Control,” any committee thereof duly authorized to act on behalf of such board; and
- (2) with respect to any other Person, the functional equivalent of a board of directors of a corporation or, other than for purposes of the definition of “Change of Control,” any committee thereof duly authorized to act on behalf thereof.

“Capital Lease Obligation” means, at the time of determination, the amount of the liability in respect of a capital lease that would at that time be required to be capitalized on a balance sheet in accordance with Accounting Principles.

“Capital Stock” means:

- (1) in the case of a corporation, corporate stock;
- (2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) in the equity of such association or entity;
- (3) in the case of a partnership or limited liability company, partnership interests (whether general or limited) or membership interests; and
- (4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

“Cash Equivalents” means:

- (1) United States dollars, pounds sterling or Euro or other currency of a member of the Organization for Economic Cooperation and Development (including such currencies as are held as overnight bank deposits and demand deposits with banks);
- (2) securities issued or directly and fully guaranteed or insured by the government of the United States or any Member State of the European Union or any other country whose sovereign debt has a rating of at least A3 from Moody’s and at least A from S&P or any agency or instrumentality thereof having maturities of not more than one year from the date of acquisition;
- (3) demand and time deposits and eurodollar time deposits and certificates of deposit or bankers’ acceptances with maturities of one year or less from the date of acquisition, in each case, with any financial institution organized under the laws of any country that is a member of the Organization for Economic Cooperation and Development (a) whose long-term debt obligations are rated at least “A-3” or the equivalent thereof by S&P or at least “P-3” or the equivalent thereof by Moody’s (or if at the time neither is issuing comparable ratings, then a comparable rating of another Rating Agency) or (b) having capital and surplus and undivided profits in excess of \$250,000,000;
- (4) repurchase obligations with a term of not more than 60 days for underlying securities of the types described in paragraph (2) above entered into with any financial institution meeting the qualifications specified in paragraph (3) above;

- (5) commercial paper and variable or fixed rate notes rated P-1 or higher by Moody's Investors Service, Inc. or A-1 or higher by Standard & Poor's Rating Services and, in each case, maturing within one year after the date of acquisition;
- (6) money market funds that invest primarily in Cash Equivalents of the kinds described in paragraphs (1) through (5) of this definition; and
- (7) instruments equivalent to those referred to in paragraphs (1) through (6) above denominated in any other foreign currency and comparable in credit quality and tenor to those referred to above and customarily to the extent reasonably required in connection with (a) any business conducted by the Borrower or any of its Subsidiaries in such jurisdiction or (b) any Investment in the jurisdiction in which such Investment is made.

"Change of Control" means the occurrence of any of the following events:

- (1) at any time, the Borrower becomes aware of (by way of a report or any other filing pursuant to Section 13(d) of the Exchange Act, proxy, vote, written notice or otherwise) the acquisition by any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act or any successor provision), including any group acting for the purpose of acquiring, holding or disposing of securities (within the meaning of Rule 13d-5(b)(1) under the Exchange Act, or any successor provision), other than the Permitted Holders, in a single transaction or in a related series of transactions, by way of merger, consolidation or other business combination or purchase of beneficial ownership of a majority of the total voting power of the Voting Stock of the Borrower or any direct or indirect Borrower company of the Borrower; *provided* that (x) so long as the Borrower is a Subsidiary of a Borrower company, no Person shall be deemed to be or become a beneficial owner of more than 50% of the total voting power of the Voting Stock of the Borrower unless such Person shall be or become a beneficial owner of more than 50% of the total voting power of the Voting Stock of such Borrower company and (y) any Voting Stock of which any Permitted Holder is the beneficial owner shall not in any case be included in calculating the Voting Stock of which any such Person first referred to above in this paragraph (1) is the beneficial owner;
- (2) the sale, lease or transfer, in one or a series of related transactions, of all or substantially all of the assets of the Borrower and the Subsidiaries, taken as a whole, to any Person other than a Wholly Owned Subsidiary or one or more Permitted Holders in connection with which any Person other than one or more Permitted Holders, is or becomes the beneficial owner (within the meaning of Rule 13d-3 under the Exchange Act, or any successor provision), directly or indirectly, of a majority of the total voting power of the Voting Stock of the transferee Person in such sale or transfer of assets, as the case may be, *provided* that (x) so long as such transferee Person is a Subsidiary of a Permitted Borrower, no Person shall be deemed to be or become a beneficial owner of a majority of the total voting power of the Voting Stock of such transferee Person unless such Person shall be or become a beneficial owner of a majority of the total voting power of the Voting Stock of such Permitted Borrower and (y) any Voting Stock of which any Permitted Holder is the beneficial owner shall not in any case be included in the calculation of any Voting Stock of which any such Person first referred to above in this paragraph (2) is the beneficial owner;
- (3) the Borrower shall adopt a plan of liquidation or dissolution or any such plan shall be approved by the stockholders of the Borrower; or

- (4) a de-listing of the Borrower's stock from the New York Stock Exchange or another internationally recognised stock exchange (if applicable) that does not occur in connection with a listing of the Borrower's shares on another internationally recognised stock exchange, provided that if CMA CGM or its Affiliates or other parties acting in concert with CMA CGM or its Affiliates acquires 100% of the shares of the Borrower and, following such acquisition, the shares of the Borrower are de-listed as described in this sub-paragraph (4), such de-listing shall not constitute a Change of Control, so long as the Senior Secured Notes are listed on a reputable stock exchange and remain so listed until they mature or are no longer outstanding.

"Charter" means each time charter, bareboat charter or voyage charter entered into with respect to a Vessel.

"CMA CGM" means CMA CGM S.A. and its Subsidiaries.

"CMA Ships" means CMA Ships Management, a Subsidiary of CMA CGM.

"Collateral" means, collectively, all of the property and assets (including, without limitation, Trust Monies) that are from time to time subject to the Security Documents.

"Collateral Account" has the meaning given to that term in the Intercreditor Agreement.

"Currency Exchange Protection Agreement" means, in respect of any Person, any foreign exchange contract, currency swap agreement, currency option, cap, floor, ceiling or collar or agreement or other similar agreement or arrangement designed to protect such Person against fluctuations in currency exchange rates as to which such Person is a party.

"Debt Documents" shall have the meaning assigned to such term in the Intercreditor Agreement.

"Disqualified Stock" means the Existing Preferred Shares and any other Capital Stock that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder of the Capital Stock, in whole or in part, on or prior to the maturity date of the Senior Secured Notes. Notwithstanding the preceding sentence, any Capital Stock that would constitute Disqualified Stock solely because the holders of the Capital Stock have the right to require the issuer thereof to repurchase or redeem such Capital Stock upon the occurrence of a change of control or an asset sale or the destruction (including a total loss) of an asset prior to the maturity date of the Senior Secured Notes will not constitute Disqualified Stock. The amount of Disqualified Stock deemed to be outstanding at any time for purposes of this Agreement will be the maximum amount that the Borrower and its Subsidiaries may become obligated to pay upon the maturity of, or pursuant to any mandatory redemption provisions of, such Disqualified Stock.

"Eligible Jurisdiction" means any of the Republic of the Marshall Islands, the United States of America, any State of the United States or the District of Columbia, the Commonwealth of the Bahamas, the Republic of Liberia, the Republic of Panama, the Commonwealth of Bermuda, the British Virgin Islands, the Cayman Islands, Cyprus (excluding the 'Turkish Republic of Northern Cyprus'), Norway, Greece, Hong Kong, the United Kingdom, Malta, Gibraltar, the Isle of Man, Ireland, Belgium, the Channel Islands, France, Germany, the Netherlands, Denmark, Sweden and Singapore and any other jurisdiction generally acceptable to institutional lenders in the shipping industry, as determined in good faith by the Borrower.

"Equity Interests" means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

"Excess Loss Proceeds" means Total Loss Event Proceeds that are not applied or invested as provided in the first paragraph 5 ("Total Loss Events"), provided that in the case of a Material Total Loss Event, and no more than one such Material Total Loss Event, such Excess Loss Proceeds may be reduced, at the Borrower's option, by an amount not exceeding 50% of the charter-adjusted Fair Market Value less the charter-free Fair Market Value (to the extent positive) of the applicable Lost Mortgaged Vessel.

“Exchange Act” means the U.S. Securities Exchange Act of 1934, as amended.

“Exercised Vessel Purchase Option Contract” means any Vessel Purchase Option Contract which has been exercised by the Borrower or a Subsidiary, obligating the Borrower or such Subsidiary to purchase such Vessel and any Related Assets, subject only to customary conditions precedent.

“Existing Charters” means each of the time charters existing on the date of this Agreement with respect to the Existing Vessels, as each such time charter is amended through the date of this Agreement and as each such time charter may be amended, modified, supplemented, replaced, extended or renewed from time to time in compliance with paragraph 1.1.

“Existing Indebtedness” means all outstanding Indebtedness of the Borrower and its Subsidiaries under the Existing Facilities and the Existing 2019 Notes.

“Existing Mandatorily Redeemable Preference Shares” means the Mandatorily Redeemable Preference Shares, Series A of the Borrower with the powers, designations preferences and rights and qualifications, limitations and restrictions as set forth in a Certificate of Designation filed with the Registrar of Corporations of the Republic of the Marshall Islands on August 14, 2008, as amended by the Agreement dated as of August 20, 2009, by and between the Borrower and CMA CGM, and as the same may be further amended, modified, supplemented, replaced, extended or renewed from time to time in compliance with the provisions of this Agreement.

“Existing Preferred Shares” means the Borrower’s 8.75% Series B Cumulative Redeemable Perpetual Preferred Shares as may be amended, modified, supplemented, replaced, extended or renewed from time to time in compliance with the provisions of the Indenture, provided that no such amendment, modification, supplement, replacement, extension or renewal may be materially disadvantageous to the interests of the Finance Parties.

“Existing Vessels” means the following Vessels owned by a Guarantor on the date of this Agreement: CMA CGM Matisse, CMA CGM Utrillo, Delmas Keta, Julie Delmas, Kumasi, Marie Delmas, CMA CGM La Tour, CMA CGM Manet, CMA CGM Alcazar, CMA CGM Château d’If, CMA CGM Thalassa, CMA CGM Jamaica, CMA CGM Sambhar, CMA CGM America, CMA CGM Berlioz, OOCL Qingdao, OOCL Ningbo and OOCL Tianjin (trn “GSL Tianjin”).

“Fair Market Value” means, with respect to any asset or property, the value that would be paid in cash by a willing buyer to an unaffiliated willing seller on the basis of a sale for prompt delivery in an arm’s length transaction not involving distress or necessity of either party, as determined in good faith by the Borrower provided that in respect of a Vessel, such Fair Market Value shall be determined, in US dollars, as the arithmetic mean of independent valuations of such Vessel on an “as is where is” basis, including any charters or other contracts for employment, obtained by the Borrower from two Approved Valuers.

“Financial Support” means the provision of any loans or guarantees or similar financial support (including third-party security), or the voluntary assumption of any financial liability (whether actual or contingent) by the Borrower or any of its Subsidiaries to, or for the benefit of, any Person (other than the Borrower or any of its Subsidiaries).

“Government Securities” means direct obligations of, or obligations guaranteed by, the United States of America, and the payment for which the United States pledges its full faith and credit.

“**Hedging Obligations**” means, with respect to any Person, the obligations of such Person under swap, cap, collar, forward purchase, any forward freight agreement or comparable swap, future or similar agreement or arrangement relating to derivative trading in freight or similar rates, or agreements or arrangements similar to any of the foregoing and dealing with interest rates, currency exchange rates, commodity prices or freight rates, either generally or under specific contingencies.

“**Indebtedness**” of any Person at any date means, without duplication, any indebtedness for or in respect of:

- (1) moneys borrowed and debt balances at banks or other financial institutions or other lenders;
- (2) any amount raised by acceptance under any acceptance credit facility or dematerialized equivalent;
- (3) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument, including the Senior Secured Notes;
- (4) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with the Accounting Principles, be treated as a finance or capital lease (meaning that the lease is capitalized as an asset and booked as a corresponding liability in the balance sheet);
- (5) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis, *provided* that the requirements for de-recognition under the Accounting Principles as in effect on the date of this Agreement are met);
- (6) any derivative transaction entered into and, when calculating the value of any derivative transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that derivative transaction, that amount shall be taken into account);
- (7) any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution in respect of an underlying liability of a person which is not the Borrower or any of its Subsidiaries which liability would fall within one of the other paragraphs of this definition;
- (8) Disqualified Stock;
- (9) all obligations of such Person representing the balance of the deferred and unpaid purchase price of any property due more than six months after such property is acquired and which is treated as indebtedness under the Accounting Principles, except any such balance that constitutes an accrued expense or trade payable, or similar obligations to trade creditors incurred in the ordinary course of a Permitted Business;
- (10) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing or otherwise being classified as a borrowing under the Accounting Principles as in effect on the Utilization Date;
- (11) Attributable Indebtedness;
- (12) liquidation preference of preferred stock issued by a Subsidiary to any Person other than the Borrower or another Subsidiary;

- (13) all Indebtedness of others secured by a Lien on any asset of such Person, whether or not such Indebtedness is assumed by such Person; and
- (14) without double counting, the amount of any liability in respect of any guarantee for any of the items referred to in sub-paragraph s (1) to (13) above.

Notwithstanding the foregoing, and for the avoidance of doubt, Indebtedness shall be deemed not to include any operating leases as such an instrument would be determined in accordance with the Accounting Principles.

Notwithstanding paragraph (9) above, the obligation of the Borrower or any Subsidiary to pay the purchase price for an Exercised Vessel Purchase Option Contract entered into and exercised in the ordinary course of a Permitted Business and consistent with past practices of the Borrower and its Subsidiaries shall not constitute “Indebtedness” under paragraph (9) above even though the purchase price therefor may be due more than six months after exercise thereof.

“**Lien**” means any encumbrance, mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having similar effect, *provided* that in no event shall an operating lease that is not a Capital Lease Obligation be deemed to constitute a Lien.

“**Material Total Loss Event**” means a Total Loss Event involving (a) any of CMA CGM Thalassa, CMA CGM Berlioz, CMG CGM Alcazar, CMA CGM Chateau d’If, CMA CGM America, CMA CGM Jamaica, CMA CGM Sambhar or (b) any Vessel substituted for any of the foregoing as part of the Collateral which has an equivalent or greater Fair Market Value.

“**Moody’s**” means Moody’s Investors Service, Inc. and any successor to its rating agency business.

“**Net Proceeds**” means the aggregate cash and Cash Equivalents proceeds received by the Borrower or any of its Subsidiaries in respect of any Asset Sale (including, without limitation, any cash received upon the sale or other disposition of any non-cash consideration received in any Asset Sale), net of fees, commissions, expenses and other direct costs relating to such Asset Sale, including, without limitation, (a) fees and expenses related to such Asset Sale (including legal, accounting and investment banking fees, title and recording Tax fees and sales and brokerage commissions, and any relocation expenses and severance or shutdown costs incurred as a result of such Asset Sale), (b) all federal, state, provincial, foreign and local Taxes paid or payable as a result of the Asset Sale, (c) amounts required to be paid to any Person (other than the Borrower or any of its Subsidiaries) owning a beneficial interest in the assets which are subject to such Asset Sale and (e) any escrow or reserve for adjustment in respect of the sale price of such assets established in accordance with the Accounting Principles and any reserve in accordance with the Accounting Principles against any liabilities associated with such Asset Sale and retained by the seller after such Asset Sale, including pension and other post employment benefit liabilities, liabilities related to environmental matters and liabilities under any indemnification obligations associated with such Asset Sale except to the extent that such proceeds are released from any such escrow or to the extent such reserve is reduced or eliminated.

“**Officer**” means, with respect to any Person, any of the following: the Chairman of the Board of Directors, the Chief Executive Officer, the Chief Financial Officer, the President, the Chief Operating Officer, the Chief Technical Officer, any Vice President, any Assistant Vice President, the Treasurer, any Assistant Treasurer, the Secretary, any Assistant Secretary, the Controller or any other officer designated by the relevant Board of Directors serving in a similar capacity.

“**Officer’s Certificate**” means a certificate signed on behalf of the Borrower by any one Officer of the Borrower, who must be the principal executive officer, the principal financial officer, the treasurer, the controller, the general counsel or the principal accounting officer of the Borrower.

“Opinion of Counsel” means a written opinion from legal counsel that meets the requirements of this Agreement. The counsel may be an employee of, or counsel to, the Borrower or a Guarantor. Opinions of Counsel required to be delivered under this Agreement may have qualifications customary for opinions of the type required in the relevant jurisdiction or related to the items covered by the opinion and counsel delivering such Opinions of Counsel may rely on certificates of the Borrower or government or other officials customary for opinions of the type required, including certificates certifying as to matters of fact.

“Permitted Business” means any business engaged in by the Borrower, any Subsidiary of the Borrower, or any direct or indirect Borrower of the Borrower on the Utilization Date and any business or other activities that are reasonably related, ancillary, supplemental or complementary thereto, or a reasonable extension, development or expansion of, the businesses in which the Borrower and the Subsidiaries are engaged on the Utilization Date.

“Permitted Debt” is defined in paragraph 6.2

“Permitted Financial Support” means any Financial Support:

- (1) provided in relation to the Senior Secured Notes and this Agreement;
- (2) provided in relation to the Existing Indebtedness and existing on the Utilization Date, *provided* that the Existing Indebtedness and such Financial Support shall be discharged substantially concurrently with the issue of the Senior Secured Notes;
- (3) provided by (a) the Borrower or any of its Subsidiaries that are not Guarantors in relation to any Indebtedness permitted to be incurred under sub-paragraphs (3), (4), (5), (6), (8), (9), (10) and (17) of paragraph 6 (“Incurrence of Indebtedness”) and (b) Guarantors in relation to any Indebtedness permitted to be incurred under sub-paragraph (10) of paragraph 6 “Incurrence of Indebtedness”;
- (4) provided by the Borrower or any of its Subsidiaries in the ordinary course of business, including, but not limited to, deposits, performance bonds, security, company guarantees or performance guarantees given to shipyards or pursuant to bareboat charters, time charters, voyage charters or contracts of affreightment, or in connection with lease-in contracts and related arrangements; *provided* that with respect to Guarantors, any liability pursuant to this sub-paragraph (4) shall only be in respect of the relevant Vessel of such Guarantor;
- (5) any other Financial Support not to exceed in the aggregate \$5.0 million (or its equivalent in other currencies) at any time; or
- (6) in the form of loans between or among any of the Borrower and its Subsidiaries and the payments in respect of such loans.

“Permitted Holders” means each of: (a) CMA CGM or any Subsidiary of CMA CGM for so long as it remains a Subsidiary of CMA CGM and (b) (i) Michael S. Gross; (ii) each of his spouse, siblings, ancestors, descendants (whether by blood, marriage or adoption, and including stepchildren) and the spouses, siblings, ancestors and descendants thereof (whether by blood, marriage or adoption, and including stepchildren) of such natural persons, the beneficiaries, estates and legal representatives of any of the foregoing, the trustee of any *bona fide* trust of which any of the foregoing, individually or in the aggregate, are the majority in interest beneficiaries or grantors, and any corporation, partnership, limited liability company or other Person in which any of the foregoing, individually or in the aggregate, own or control a majority in interest; and (iii) all Affiliates controlled by the Persons named in paragraphs (i) and (ii) above.

“Permitted Liens” means:

- (1) any Liens created under the Senior Secured Notes Indenture;
- (2) any Liens created under the Existing Indebtedness, *provided* the Existing Indebtedness will be refinanced using the proceeds of the offering of the Notes and the proceeds of drawdown of this Agreement, and such Liens will be released concurrently therewith;
- (3) any Liens created under this Agreement, securing an aggregate principal amount of \$54.8 million, together with interest, fees and any other amounts (other than principal) which may be outstanding from time to time in accordance with the terms of this Agreement, *provided* that such Liens may have super senior priority status in respect of the Collateral;
- (4) any Liens granted by any Borrower or Subsidiary of the Borrower (other than any Guarantors) over its assets or revenues to secure Indebtedness incurred under sub-paragraph s (3), (4), (5) or (6) of paragraph 6.2(Permitted Debt), except any Liens on assets that constitute Collateral or (in respect of the Borrower and GSLS) any bank accounts;
- (5) any Liens granted by the Borrower over (i) shares of any vessel-owning Subsidiary (other than any Guarantor) and (ii) claims the Borrower has against any Subsidiary (other than any Guarantor), in each case to secure Indebtedness incurred under sub-paragraphs (3), (4), (5) or (6) of paragraph 6.2(Permitted Debt);
- (6) any Liens arising by operation of law or in the ordinary course of operations of any Vessel;
- (7) any other Liens (other than over any Collateral) securing obligations, which obligations do not exceed \$5.0 million (or its equivalent in other currencies);
- (8) Liens in favour of the Borrower or any of its Subsidiaries (other than Liens on any assets or property constituting Collateral);
- (9) Liens on property of a Person existing at the time such Person is merged with or into or consolidated or amalgamated with the Borrower or any Subsidiary of the Borrower *provided* that such Liens were not created in connection with such merger, consolidation or amalgamation and do not extend to any assets other than those of the Person merged into or consolidated or amalgamated with the Borrower or the Subsidiary and *provided, further*, that no such Liens shall extend to any assets or property constituting Collateral;
- (10) (x) Liens imposed by law, such as carriers’, warehousemen’s, landlord’s, suppliers’ and mechanics’ Liens, in each case, incurred in the ordinary course of a Permitted Business, (y) other Liens arising by operation of law covered by insurance (including any deductibles thereon) and (z) Liens incurred or deposits in connection with workers’ compensation, employment insurance or other types of social security, including Liens securing letters of credit issued in the ordinary course of a Permitted Business or to secure the performance of tenders, statutory obligations, surety and appeal bonds, bids, leases, government contracts, performance and return of money bonds and other similar obligations including those arising from regulatory, contractual or warranty requirements of the Borrower and its Subsidiaries, including rights of offset and set off (in each case exclusive of obligations for the payment of borrowed money) provided that such liens are not outstanding for more than 30 days, unless the existence of such liens is being contested in good faith by appropriate proceedings (and for the payment of which adequate reserves have been made), and for so long as such proceedings do not, in the reasonable opinion of the Facility Agent, involve a material likelihood of the sale, forfeiture or loss of the relevant vessel;

- (11) Liens to secure any Permitted Refinancing Indebtedness permitted to be incurred under the Indenture; *provided, however*, that such Liens (a) are not materially more favorable to the lienholders with respect to such Liens than the Liens in respect of the Indebtedness being refinanced, and (b) do not extend to or cover any property or assets of the Borrower or any of its Subsidiaries not securing the Indebtedness so refinanced (other than (x) any improvements or accessions to such property or assets or any items which constitute Related Assets with respect to such underlying property or assets securing the Indebtedness so refinanced or (y) any Lien on additional property or assets which Lien would have been permitted to be granted by the covenant under paragraph 8 in respect of the Indebtedness being refunded, refinanced, replaced, defeased or discharged by such Permitted Refinancing Indebtedness at the time such prior Indebtedness was initially incurred by the Borrower or such Subsidiary);
- (12) Liens arising by reason of any judgment, decree or order of any court or other competent authority not giving rise to an Event of Default or Liens granted or incurred by the Borrower or any Subsidiary in connection with the release from arrest, detention, attachment or levy of any of its assets by any court or competent authority (including any governmental or regulatory agency);
- (13) Liens and rights of setoff in favor of a bank imposed by law and incurred in the ordinary course of a Permitted Business on deposit accounts and Liens and rights of set-off in favour of a bank created pursuant to the second and third paragraphs of the acknowledgements to the notices of pledge under each of the first priority deeds of pledge over each Guarantor's earnings accounts, in each case maintained with such bank and cash and Cash Equivalents in such accounts;
- (14) Liens on any portion of the proceeds from an issuance of additional notes (together with other funds available to the Borrower, if applicable) deposited with the Security Agent, for the benefit of the trustee and the holders of the Senior Secured Notes, to secure such additional notes;
- (15) leases, licenses, subleases and sublicenses of assets in the ordinary course of business;
- (16) Liens on cash or Cash Equivalents arising in connection with defeasance, discharge or redemption of Indebtedness;
- (17) Liens on property (including Capital Stock) existing at the time of acquisition of the property by the Borrower or any Subsidiary of the Borrower; *provided* that such Liens were not incurred in connection with such acquisition; *provided, further*; that no such Liens shall extend to any assets or property constituting Collateral;
- (18) Liens arising from Uniform Commercial Code financing statements, filings or other applicable similar filings regarding operating leases and vessel charters entered into by the Borrower and its Subsidiaries in the ordinary course of a Permitted Business;
- (19) Liens incurred in the ordinary course of a Permitted Business of the Borrower or any Subsidiary not securing Indebtedness and arising by operation of law or contract from Vessel chartering, drydocking, maintenance, repair, refurbishment or replacement, the furnishing of supplies and bunkers to Vessels and Related Assets, repairs and improvements to Vessels and Related Assets, masters', officers' or crews' wages and maritime Liens and any other Liens (other than Liens in respect of Indebtedness) incurred in the ordinary course of operations of a Vessel; *provided* that in the case of a Charter of a Mortgaged Vessel, such Lien is subject to the Lien of the Security Documents provided that such liens are not

outstanding for more than 30 days, unless the existence of such liens is being contested in good faith by appropriate proceedings (and for the payment of which adequate reserves have been made), and for so long as such proceedings do not, in the reasonable opinion of the Facility Agent, involve a material likelihood of the sale, forfeiture or loss of the relevant vessel;

- (20) Liens for general average and salvage;
- (21) Liens for Taxes, assessments or governmental charges or claims that are not yet due or that are being contested in good faith by appropriate proceedings promptly instituted and diligently concluded; *provided* that any reserve or other appropriate provisions as is required in conformity with the Accounting Principles has been made therefor;
- (22) Liens on insurance policies and proceeds thereof, or other deposits, to secure insurance premium financings;
- (23) Liens incurred in connection with a cash management program established in the ordinary course of business;
- (24) Liens (except over Collateral) securing any Indebtedness which became Indebtedness pursuant to a transaction permitted under paragraph 11 (“—Certain Covenants—Merger, Consolidation or Sale of Assets”) and which Indebtedness is permitted under sub-paragraph (17) of Permitted Debt; and
- (25) any extension, renewal or replacement, in whole or in part, of any Lien described in the foregoing clauses (1) through (23); *provided* that any such extension, renewal or replacement is no more restrictive in any material respect that the Lien so extended, renewed or replaced and does not extend to any additional property or assets.

For purposes of determining what category of Permitted Lien that any Lien shall be included in, the Borrower in its sole discretion may classify such Lien on the date of its incurrence and later reclassify all or a portion of such Lien in any manner that complies with this definition (including in part in one category and in part in another category).

“**Permitted Parent**” means any direct or indirect parent of the Borrower formed not in connection with, or in contemplation of, a transaction that, assuming such parent was not formed, after giving effect thereto would constitute a Change of Control.

“**Permitted Payment**” is defined in paragraph 7.2.

“**Permitted Refinancing Indebtedness**” means any Indebtedness or Disqualified Stock of the Borrower or any Indebtedness, Disqualified Stock or preferred stock of any of its Subsidiaries issued in exchange for, or the net proceeds of which are used to refund, refinance, replace, defease or discharge, other Indebtedness or Disqualified Stock of the Borrower or any Indebtedness, Disqualified Stock or preferred stock of any of its Subsidiaries; *provided* that, in the case of Indebtedness which is not being used to concurrently refinance or repay the Indebtedness under the Finance Documents in full:

- (1) the principal amount (or accreted value, if applicable) or mandatory redemption amount of such Permitted Refinancing Indebtedness does not exceed the principal amount (or accreted value, if applicable) or mandatory redemption amount, plus accrued interest or dividends in connection therewith, of the Indebtedness, Disqualified Stock or preferred stock extended, refinanced, renewed, replaced, defeased or refunded (plus all dividends and accrued interest on such Indebtedness, Disqualified Stock or preferred stock and the amount of all fees, expenses, premiums and other amounts incurred in connection therewith);

- (2) such Permitted Refinancing Indebtedness has a final maturity or final redemption date either (i) no earlier than the final maturity or final redemption date of the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded or (ii) after the last day of the Term Loan Period;
- (3) the portion, if any, of the Indebtedness, Disqualified Stock or preferred stock being extended, refinanced, renewed, replaced, defeased or refunded has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of, the Indebtedness, Disqualified Stock or preferred stock being extended, refinanced, renewed, replaced, defeased or refunded;
- (4) if (i) the Indebtedness, Disqualified Stock or preferred stock being extended, refinanced, renewed, replaced, defeased or refunded is subordinated in right of payment to the Indebtedness under the Finance Documents, such Permitted Refinancing Indebtedness is subordinated in right of payment to the Indebtedness under the Finance Documents on terms at least as favorable to the Finance Parties as those contained in the documentation governing the Indebtedness, Disqualified Stock or preferred stock being extended, refinanced, renewed, replaced, defeased or refunded; and (ii) if the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded is unsecured or secured by the Collateral on a basis entirely junior to that of the Senior Secured Notes, such Permitted Refinancing Indebtedness is unsecured or secured by the Collateral on a basis entirely junior to that of the Senior Secured Notes; and.
- (5) such Indebtedness is incurred either by (i) if a Subsidiary that is not a Guarantor is the obligor on the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded, any Subsidiary that is not a Guarantor or (ii) the Borrower or Guarantor (or any Subsidiary that becomes a Guarantor in contemplation of or upon the incurrence of such Permitted Refinancing Indebtedness).

For all purposes of this Agreement, Indebtedness, Disqualified Stock or preferred stock of the Borrower or any of its Subsidiaries (collectively, the “Replacement Indebtedness”) may in the Borrower’s discretion be deemed to replace other Indebtedness, Disqualified Stock or preferred stock of the Borrower or any of its Subsidiaries (collectively, the “Replaced Indebtedness”) if such Replacement Indebtedness satisfies the requirements of paragraphs (1) through (5) above and is (x) incurred no later than 180 days of the date on which the Replaced Indebtedness was repaid, redeemed, defeased or discharged and (y) if the proceeds of the Replaced Indebtedness were primarily utilized to finance or refinance the acquisition of one or more Vessels, then substantially all of the net proceeds from such Replacement Indebtedness must be used to finance or refinance the acquisition of assets used or useful in a Permitted Business (including, without limitation, Vessels and Related Assets, which need not be the same Vessels or Related Assets which were financed or refinanced with the Replaced Indebtedness).

“Permitted Transfer” means:

- (1) payments on or with respect to any Permitted Financial Support; and
- (2) transfers of assets (including cash or Cash Equivalents) in an aggregate amount, or having an aggregate Fair Market Value, when taken together with all other assets made pursuant to this sub-paragraph (2) that are at the time outstanding, not to exceed:

- (a) the greater of \$30.0 million and 27% of Adjusted EBITDA of the Borrower provided that any transfer of assets under this paragraph in an aggregate amount in excess of US\$20,000,000 may only be used to invest in a member or members of the Restricted Group, *plus*
- (b) 100% of the aggregate net cash proceeds and (ii) 100% of the Fair Market Value of the property and assets other than cash, in each case, received by the Borrower after the Utilization Date (other than from a Subsidiary of the Borrower) as a contribution to its equity capital or from the issue or sale (other than to a Subsidiary of the Borrower) of Qualified Equity Interests, including upon the exercise of options or warrants, or from the issue or sale (other than to a Subsidiary of the Borrower) of Indebtedness of the Borrower that has been converted into or exchanged for Qualified Equity Interests, together with the aggregate cash and Cash Equivalents received by the Borrower or any of its Subsidiaries at the time of such conversion or exchange, excluding, in the case of each of (i) and (ii), the amount of any such net cash proceeds or property or assets used to make Permitted Payments pursuant to sub-paragraph (3) of the second paragraph of paragraph 7 “Restricted Payments”;

provided that no Collateral may be transferred pursuant to this sub-paragraph (2) unless such transfer is made in connection with a substitution of Collateral in accordance with the provisions described under paragraph 2—(“Addition and Substitution of Collateral”).

“**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.

“**Qualified Equity Interests**” means Equity Interests of the Borrower other than Disqualified Stock.

“**Ready for Sea Cost**” means with respect to a Vessel to be acquired or leased by the Borrower or any Subsidiary, the aggregate amount of all expenditures incurred to acquire or construct and bring such Vessel to the condition and location necessary for its intended use, including any and all inspections, appraisals, repairs, modifications, additions, permits and licenses in connection with such acquisition or lease and the costs of any positioning voyage.

“**Related Asset**” means (i) any insurance policies and contracts from time to time in force with respect to a Vessel, (ii) the Capital Stock of any Subsidiary of the Borrower owning a Vessel and related assets, (iii) any money or other compensation payable in respect of any requisition or other compulsory acquisition of a Vessel, (iv) any earnings derived from the use or operation of a Vessel and/or any earnings account with respect to such earnings, (v) any charters, operating leases, contracts of affreightment, Vessel purchase options and related agreements entered and any security or guarantee in respect of the charterer’s or lessee’s obligations under such charter, lease, Vessel purchase option or agreement, (vi) any cash collateral account established with respect to a Vessel pursuant to the financing arrangement with respect thereto, (vii) any building, conversion or repair contracts relating to a Vessel and any security or guarantee in respect of the builder’s obligations under such contract and (viii) any security interest in, or agreement or assignment relating to, any of the foregoing or any mortgage in respect of a Vessel and any asset reasonably related, ancillary or complementary thereto.

“**Restricted Transfer**” means any transfer of assets (including cash or Cash Equivalents) between or among (i) any of the Borrower and the Guarantors and (ii) any Subsidiaries that are not Guarantors, in each case other than a Permitted Transfer.

“**S&P**” means Standard & Poor’s Ratings Services and any successor to its rating agency business.

“**Securities Act**” means the U.S. Securities Act of 1933, as amended.

“**Senior Secured Note Guarantee**” means the guarantee by each Guarantor of the Borrower’s obligations as issuer under the Senior Secured Note Indenture and on the Senior Secured Notes, executed pursuant to the provisions of the Senior Secured Note Indenture.

“**Stated Maturity**” means, with respect to any installment of principal on any series of Indebtedness, the date on which the payment of principal was scheduled to be paid in the documentation governing such Indebtedness as of the date of the Utilization Date (or, if incurred after the date of this Agreement, as of the date of the initial incurrence thereof) and will not include any contingent obligations to repay, redeem or repurchase any such principal prior to the date originally scheduled for the payment thereof.

“**Subordinated Indebtedness**” means Indebtedness that is (x) contractually subordinated in right of payment to liabilities under the Finance Documents, as the case may be, or (y) any Indebtedness that is unsecured or secured by a Lien on the Collateral on a basis entirely junior to that of the Senior Secured Notes or any additional Senior Secured Notes or the obligations under the Finance Documents.

“**Subsidiary**” means, with respect to any specified Person:

- (1) any corporation, association or other business entity of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees of the corporation, association or other business entity is at the time owned or controlled, directly or indirectly, by that Person or one or more Subsidiaries of such Person (or a combination thereof); and
- (2) any other Person of which at least a majority of the voting interest (without regard to the occurrence of any contingency) is at the time directly or indirectly owned by such Person or one or more Subsidiaries of such Person (or a combination thereof).

“**Total Loss Event**” means an actual or constructive total loss of a Vessel.

“**Total Loss Event Proceeds**” means all sums received in respect of the Obligatory Insurances relating to a Total Loss Event, less the out of pocket costs and expenses directly and reasonably incurred (including the broker’s collecting commission, if any) by the relevant vessel owner and/or the Borrower in collecting such proceeds.

“**Vessel Purchase Option Contract**” means any contract granting the Borrower or any Subsidiary the option to purchase one or more Vessels and any Related Assets, including any amendments, supplements or modifications thereto.

“**Voting Stock**” of any Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.

“**Weighted Average Life to Maturity**” means, when applied to any Indebtedness, Disqualified Stock or preferred stock at any date, the number of years obtained by dividing:

- (1) the sum of the products obtained by multiplying (a) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect of such Indebtedness or redemption or similar payment in respect of such Disqualified Stock or preferred stock, by (b) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by

- (2) the then outstanding principal amount of such Indebtedness or the maximum amount payable upon maturity of, or pursuant to any mandatory redemption provisions of, amount of such Disqualified Stock or preferred stock.

“Wholly Owned Subsidiary” of any Person means a Subsidiary of such Person, all of the outstanding Equity Interests of which (other than directors’ qualifying shares or shares required by applicable law to be held by a Person other than the Borrower or any of its Subsidiaries) are at the time owned by such Person or another Wholly Owned Subsidiary of such Person.

SCHEDULE 14

FORMS OF NOTIFIABLE DEBT PURCHASE TRANSACTION NOTICE

PART 1

FORM OF NOTICE ON ENTERING INTO NOTIFIABLE DEBT PURCHASE TRANSACTION

To: [] as Facility Agent

From: [The Lender]

Dated:

**[Parent] - [] Term Loan Agreement
dated [] (the Facility Agreement)**

1. We refer to paragraph (b) of Clause 28.1 (Disenfranchisement on Debt Purchase Transactions entered into by Sponsor Affiliates) of the Facility Agreement. Interest Periods defined in the Facility Agreement have the same meaning in this notice unless given a different meaning in this notice.
2. We have entered into a Notifiable Debt Purchase Transaction.
3. The Notifiable Debt Purchase Transaction referred to in paragraph 2 above relates to the amount of our Commitment(s) as set out below.

Commitment Amount of our Commitment to which Notifiable Debt Purchase Transaction relates (US Dollars)

[Lender]

By:

SCHEDULE 15
REPAYMENT SCHEDULE

Repayment Date	Principal Repayment Amount (US\$)
30 April 2018	10,000,000
31 October 2018	10,000,000
30 April 2019	10,000,000
31 October 2019	10,000,000
30 April 2020	7,400,000
31 October 2020	7,400,000

SCHEDULE 16
FORM OF SELECTION NOTICE

To: [AGENT] as Facility Agent

From: []

Date: []

[COMPANY] – U.S.\$[AMOUNT] Term Loan Agreement
dated [] 2017 (the Agreement)

1. We refer to the Agreement. This is a Selection Notice. Terms defined in the Agreement have the same meaning in this Selection Notice unless given a different meaning in this Selection Notice.
2. We refer to the [Loan][Tranche] with an Interest Period ending on [].*
3. [We request that the above Loan be divided into [] Tranches with the following amounts and Interest Periods.]**
or
[We request that the next Interest Period for the above [Loan][Tranche] is [].]***
4. We confirm that each condition precedent under the Agreement which is required to be satisfied on the date of this Selection Notice is satisfied.
5. This Selection Notice is irrevocable.

By:

[BORROWER/COMPANY]

* Insert details of all Loans in the same currency which have an Interest Period ending on the same date.

** Use this option if division of Loans is requested.

*** Use this option if sub division is not required.

APPENDIX 1

FORM OF GENERAL ASSIGNMENT

DEED OF ASSIGNMENT

[] 2017

[INSERT NAME OF OWNER]

as Owner

and

CITIBANK, N.A., LONDON BRANCH

as Security Agent

**This Deed of Assignment is subject to the terms
of an Intercreditor Agreement dated [•] 2017**

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THIS DEED is dated [●] 2017 and made **BETWEEN**:

- (8) [INSERT NAME OF OWNER] as described in more detail in Schedule 17 (the **Owner**); and
- (9) **CITIBANK, N.A., LONDON BRANCH** as security agent for the Secured Parties (as defined in the Intercreditor Agreement referred to below) (the **Security Agent**).

BACKGROUND:

- (A) The Owner enters into this Deed in connection with the Secured Debt Documents.
- (B) It is intended that this document takes effect as a deed notwithstanding the fact that a party may only execute this document under hand.

IT IS AGREED as follows:

40. INTERPRETATION

40.1 Definitions

- (a) Terms defined in the Intercreditor Agreement have, unless expressly defined in this Deed, the same meaning when used in this Deed.
- (b) In this Deed:

Act means the Law of Property Act 1925.

Assigned Contract means:

- (c) any Charter;
- (d) any pooling agreement;
- (e) any Charter Guarantee; or
- (f) any Ship Management Agreement.

Assigned Property means all of the rights which the Owner has now or may obtain at any time in the future under or in connection with:

- (a) each Assigned Contract and in any rights accruing to, derived from or otherwise connected with that Assigned Contract including the right to receive Earnings under or pursuant to that Assigned Contract;
- (b) any Intra-Group Loan Agreement;
- (c) the Obligatory Insurances;
- (d) the Earnings; and
- (e) any Requisition Compensation,

together with any other assets, rights or interests derived from any of those rights.

Charter means:

- (g) the charter commitment for the Vessel details of which are provided in Schedule 17, provided that such charter commitment has a remaining duration of six (6) months or more (after giving effect to any optional extensions thereto as if such options were exercised) on the date that this Deed is signed; and
- (h) any future charter, commitment or other contract of employment in respect of the Vessel, including any pooling agreement, entered into by the Owner during the Security Period with a fixed term period exceeding six (6) months (after giving effect to any optional extensions thereto as if such options were exercised),

in each case, including any agreement or other document supplementing, varying, amending, extending or terminating such charter or other contract.

Charter Notice means a notice of assignment in substantially the form set out in Schedule 20, or:

- (i) prior to the Term Lender Discharge Date, any other form approved in writing by the Security Agent acting on the instructions of the Term Agent; and
- (j) at any time thereafter, in any other form not materially less favourable to the Secured Parties remaining at such time, as determined in good faith by the Parent and certified to the Security Agent in an officer's certificate.

Charter Guarantee means:

- (k) [the guarantee in respect of the Charter referred to in paragraph (a) of the definition of Charter, details of which are provided in Schedule 17 (if any); and]⁴
- (l) any future guarantee or letter of credit in respect of a Charter (if any),

[in each case,] including any agreement or other document supplementing, varying, amending, extending or terminating such guarantee or letter of credit.

Charter Guarantee Notice means a notice of assignment in substantially the form set out in Schedule 21 or:

- (a) prior to the Term Lender Discharge Date, any other form approved in writing by the Security Agent acting on the instructions of the Term Agent; and
- (b) at any time thereafter, in any other form not materially less favourable to the Secured Parties remaining at such time, as determined in good faith by the Parent and certified to the Security Agent in an officer's certificate.

Charterer means, in respect of a Charter, the person who is the charterer of the Vessel under that Charter. Details of the Charterer on the date of this Deed are provided in Schedule 1.

Classification means the classification specified in Schedule 1 with the Classification Society or another equivalent classification for vessels of the same type and age as the Vessel.

⁴ Only to be included to the extent there is a day one Charter Guarantee.

Classification Society means the classification society specified in Schedule 1 or another classification society (which is a member of the International Association of Classification Societies (IACS) or, if such association no longer exists, any similar association nominated by the Owner acting reasonably) at the request of the Owner which is:

- (m) prior to the Term Lender Discharge Date, approved in writing by the Security Agent acting on the instructions of the Term Agent; and
- (n) at any time thereafter, of equivalent standing as determined in good faith by the Parent and certified to the Security Agent in an officer's certificate.

Earnings means, in respect of the Vessel, all present and future moneys and claims which are earned by or become payable to or for the account of the Borrower or other relevant Debtor in connection with the operation or ownership of that Vessel and including but not limited to:

- (a) freights, passage and hire moneys (howsoever earned);
- (b) remuneration for salvage and towage services;
- (c) demurrage and detention moneys;
- (d) all moneys and claims in respect of the requisition for hire;
- (e) payments received in respect of any off-hire or loss of Earnings insurance; and
- (f) payments received pursuant to any Charter Guarantee.

Earnings Account means the account in the name of the Owner numbered [•] held with [•] at its offices at [•].

Environmental Claim has the meaning given to it in the Initial Term Facility Agreement.

Environmental Incident means:

- (o) any release, discharge, disposal or emission of any Hazardous Material from the Vessel;
- (p) any incident in which any Hazardous Material is released or threatened to be released, discharged, disposed of or emitted by or from a vessel other than the Vessel and which involves collision between the Vessel and such other vessel or some other incident of navigation or operation, in either case, in connection with which the Vessel is actually or potentially liable to be arrested, attached or detained and/or the Vessel and/or the Owner and/or the manager or operator, for the time being of the Vessel, is actually or allegedly at fault or otherwise liable to any legal or administrative action; or
- (q) any incident in which any Hazardous Material is released or threatened to be released, discharged, disposed of or emitted by or from a vessel other than the Vessel and where the Vessel is actually or potentially liable to be arrested as a result and/or where the Owner or the manager or operator, for the time being of the Vessel, is actually or allegedly at fault or otherwise liable to any legal or administrative action.

Environmental Laws has the meaning given to it in the Initial Term Facility Agreement.

Flag State means:

- (r) as at the date of this Deed the country specified in Schedule 1;
- (s) thereafter, any jurisdiction to which the registration of the Vessel is changed in accordance with the relevant Secured Debt Documents, which is:
 - (i) prior to the Term Lender Discharge Date, an 'Approved Flag State' as defined in the Initial Term Facility Agreement and a 'Permitted Flag Jurisdiction' as defined in the relevant Pari Passu Debt Documents; or
 - (ii) thereafter, a 'Permitted Flag Jurisdiction' as defined in the relevant Pari Passu Debt Documents.

Hazardous Material has the meaning given to it in the Initial Term Facility Agreement.

Insurance Notice means a notice of assignment in substantially the form set out in Schedule 18, or

- (a) prior to the Term Lender Discharge Date, any other form approved in writing by the Security Agent acting on the instructions of the Term Agent; and
- (b) at any time thereafter, in any other form not materially less favourable to the Secured Parties remaining at such time, as determined in good faith by the Parent and certified to the Security Agent in an officer's certificate.

Intra-Group Loan Agreement means any loan or other similar agreement under which the Owner makes loans, credit or other financial arrangements available to another member of the Group.

Obligatory Insurances means in respect of the Vessel:

- (t) all contracts and policies of insurance and all entries in clubs and/or associations which are from time to time required to be effected and maintained in accordance with the Debt Documents in respect of the Vessel; and
- (u) all benefits under the contracts, policies and entries under paragraph (a) above and all claims in respect of them and the return of premiums.

Intercreditor Agreement means the intercreditor agreement dated [•] 2017 and made between, among others, Global Ship Lease, Inc. as the parent and issuer, Citibank International plc as term agent, Citibank, N.A., London Branch as senior secured note trustee and the Security Agent.

Loss Payable Clause means the provisions concerning payment of claims under the Vessel's Obligatory Insurances in substantially the form set out in Schedule 19 or:

- (a) prior to the Term Lender Discharge Date, any other form approved in writing by the Security Agent acting on the instructions of the Term Agent; and
- (b) at any time thereafter, in any other form not materially less favourable to the Secured Parties remaining at such time, as determined in good faith by the Parent and certified to the Security Agent in an officer's certificate.

Major Casualty Amount means the amount specified as such in Schedule 17 or the equivalent in any other currency.

Manager:

- (v) prior to the Term Lender Discharge Date, has the meaning given to the term 'Manager' in the Initial Term Facility Agreement;
- (w) thereafter, has the meaning given to the term 'Permitted Manager' in the relevant Pari Passu Debt Documents.

Permitted Lien:

- (a) prior to the Term Lender Discharge Date, has the meaning given to the term 'Permitted Security Interest' in the Initial Term Facility Agreement;
- (b) thereafter, has the meaning given to the term 'Permitted Lien' in the relevant Pari Passu Debt Documents.

Receiver means an administrative receiver, a receiver and manager or a receiver, in each case, appointed under this Deed.

Registry means such registrar, commissioner or representative of the Flag State who is duly authorised and empowered to register the Vessel, the Owner's title to the Vessel and the Mortgage under the laws of its Flag State.

Requisition Compensation means any compensation paid or payable by a government entity for the requisition for title, confiscation or compulsory acquisition of the Vessel.

Secured Debt Document means each of this Deed, the Intercreditor Agreement, the Credit Facility Documents, the Pari Passu Debt Documents, the Security Documents and any other document designated as such by the Security Agent and the Parent.

Secured Obligations means all the Liabilities and all other present and future liabilities and obligations at any time due, owing or incurred by any member of the Group and by each Debtor to any Secured Party under the Debt Documents, both actual and contingent and whether incurred solely or jointly and as principal or surety or in any other capacity.

Security Assets means all assets from time to time of the Owner which are the subject of this Security.

Security Period means the period beginning on the date of this Deed and ending on the earlier of:

- (x) the Final Discharge Date; and
- (y) the date of any release of this Security required under the provisions of the Intercreditor Agreement.

Ship Management Agreement means:

- (z) the ship management agreement in respect of the Vessel, details of which are provided in Schedule 17; and

(aa) any future ship management agreement or other similar contract in respect of the Vessel entered into by the Owner, in each case, including any agreement or other document supplementing, varying, amending, extending or terminating such charter or other contract.

Ship Manager Notice means a notice of assignment in substantially the form set out in Schedule 22, or

- (a) prior to the Term Lender Discharge Date, any other form approved in writing by the Security Agent acting on the instructions of the Term Agent; and
- (b) at any time thereafter, in any other form not materially less favourable to the Secured Parties remaining at such time, as determined in good faith by the Parent and certified to the Security Agent in an officer's certificate.

Vessel means the vessel described in Schedule 17.

Total Loss:

- (bb) prior to the Term Lender Discharge Date, has the meaning given to the term 'Total Loss' in [schedule 13 to] the Initial Term Facility Agreement; and
- (cc) thereafter, has the meaning given to the term 'Total Loss Event' in the relevant Pari Passu Debt Documents.

40.2 Construction

(a) Unless a contrary indication appears, a reference in this Deed to:

- (i) **assets** includes present and future properties, revenues and rights of every description;
- (ii) a **Debt Document** or any other agreement or instrument is a reference to that Debt Document, or other agreement or instrument, as amended (including any increase in, extension of or change to any facility made available under that Debt Document), novated, supplemented, extended or restated as permitted by this Deed;
- (iii) **enforcing** (or any derivation) this Deed includes:
 - (A) the appointment of an administrator (or any analogous officer in any jurisdiction) of a Debtor by the Security Agent; and
 - (B) the making of a demand under clause 18.2 (Parallel debt) of the Intercreditor Agreement by the Security Agent;
- (iv) a **person** includes any individual, trust, firm, fund, company, corporation, partnership, joint venture, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
- (v) **proceeds** of a Distressed Disposal or of a Debt Disposal includes proceeds in cash;

- (vi) a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but if not having the force of law being one with which it is the practice of the relevant person to comply) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation; and
- (vii) a provision of **law** is a reference to that provision as amended or re-enacted.
- (b) The term **this Security** means any security created by this Deed.
- (c) Any covenant of the Owner under this Deed (other than a payment obligation) remains in force only during the Security Period.
- (d) If the Security Agent considers that an amount paid to a Secured Party under a Secured Debt Document is capable of being avoided or otherwise set aside on the liquidation or administration of the payer or otherwise, then that amount will not be considered to have been irrevocably paid for the purposes of this Deed.
- (e) Unless the context otherwise requires, a reference to a Security Asset includes:
 - (i) any part of that Security Asset;
 - (ii) any proceeds of that Security Asset; and
 - (iii) any present and future assets of that type.
- (f) If there is a conflict between the provisions of this Deed and the Intercreditor Agreement, the Intercreditor Agreement shall prevail.

40.3 Third party rights

- (a) Unless expressly provided to the contrary in this Deed, a person who is not a party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 (the Third Parties Act) to enforce or to enjoy the benefit of any term of this Deed.
- (b) Notwithstanding any term of this Deed, the consent of any person who is not a Party is not required to rescind or vary this Deed at any time.
- (c) Any Secured Party that is not a Party may enforce and enjoy the benefit of any Clause which expressly confers rights on it, subject to paragraph (b) above and the provisions of the Third Parties Act.

41. CREATION OF SECURITY

41.1 General

- (a) All Security created under this Deed:
 - (i) is created in favour of the Security Agent;
 - (ii) is security for the payment, discharge and performance of all the Secured Obligations; and

- (iii) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.
- (b) If the rights of the Owner under a document cannot be secured without the consent of a party to that document:
 - (i) the Owner must notify the Security Agent promptly;
 - (ii) this Security will constitute security over all proceeds and other amounts which the Owner may receive, or has received, under that document but exclude the Owner's other rights under the document; and
 - (iii) unless the Security Agent or the other provisions of this Deed otherwise require, the Owner must (A) promptly obtain any required consent to the assignment of the Assigned Contracts in force on the date of this Deed [other than the Charter Guarantee in force on the date of this Deed]⁵ and (B) in respect of each other Assigned Contract, Assigned Property and any applicable document, use commercially reasonable endeavours to obtain the consent as soon as practicable.
- (c) The Security Agent holds the benefit of this Deed on trust for the Secured Parties.
- (d) The fact that no or incomplete details of any Security Assets are referred to in this Deed does not affect the validity or enforceability of this Security.

41.2 Assigned Property

- (a) Subject to paragraph (b), below, the Owner assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights in respect of the Assigned Property.
- (b) To the extent that any right described in paragraph (a) above is not assignable or capable of assignment (including, without limitation, where the Owner has not received the third party consent referred to in Clause 41.1(b)(iii), if applicable) the assignment of that right purported to be effected by paragraph (a) shall operate as an assignment of any damages, compensation, remuneration, profit, rent or income which the Owner may derive from that right or be awarded or entitled to in respect of that right.
- (c) To the extent that they do not fall within any other Subclause of this Clause and are not effectively assigned under paragraph (a) or (b) above, the Owner charges by way of first fixed charge all of its rights under each agreement and document to which it is a party.

41.3 Floating charge

- (a) The Owner charges by way of a first floating charge all of its assets whatsoever and wheresoever not otherwise effectively charged or assigned under this Deed.
- (b) Except as provided below, the Security Agent may by notice to the Owner convert the floating charge created by the Owner under this Deed into a fixed charge as regards any of the Owner's assets specified in that notice, if:
 - (i) an Event of Default has occurred and is continuing; or

⁵ Wording to be included for GSL 22 / Ningbo only

- (ii) the Security Agent considers those assets to be in danger of being seized or sold under any form of distress, attachment, execution or other legal process or to be otherwise in jeopardy.
- (c) The floating charge created under this Deed may not be converted into a fixed charge solely by reason of:
 - (i) the obtaining of a moratorium; or
 - (ii) anything done with a view to obtaining a moratorium, under section 1A of the Insolvency Act 1986.
- (d) The floating charge created under this Deed will (in addition to the circumstances in which the same will occur under general law) automatically convert into a fixed charge over all of the Owner's assets if an administrator is appointed or the Security Agent receives notice of an intention to appoint an administrator.
- (e) The floating charge created under this Deed is a **qualifying floating charge** for the purpose of paragraph 14 of Schedule B1 to the Insolvency Act 1986.
- (f) The giving by the Security Agent of a notice under paragraph (b) above in relation to any asset of the Owner will not be construed as a waiver or abandonment of the Security Agent's rights to give any other notice in respect of any other asset or of any other right of any other Secured Party under this Deed or any other Secured Debt Document.
- (g) Any charge which has been converted from a floating into a fixed charge under this Clause 41.3 may be reconverted into a floating charge by notice in writing given at any time by the Security Agent to the Owner in relation to the assets specified in such notice if:
 - (i) all relevant Events of Default are remedied or waived; or
 - (ii) if it is no longer necessary in order to protect the priority, value or enforceability of the Security.

42. EARNINGS AND OTHER PAYMENTS

- 42.1 Unless an Event of Default has occurred and is continuing and the Security Agent directs to the contrary, all Earnings shall be payable to the Earnings Account, but following such a direction, such Earnings shall be payable to the Security Agent or as it may direct and the Security Agent may instruct any person from whom such Earnings are due to pay them accordingly. Any such Earnings then in the hands of an agent of the Owner shall be held to the order of the Security Agent.
- 42.2 Insurance or Requisition Compensation moneys for the Vessel in respect of a Total Loss or any other matter shall be payable in accordance with the relevant Loss Payable Clause and applied, prior to the Term Lender Discharge Date, in accordance with Schedule 13 (Notes Restrictive Covenants) to the Credit Facility Agreement and thereafter, in accordance with the relevant provision of the Senior Secured Note Indenture until the occurrence of an Event of Default and for so long as such Event of Default is continuing (when the Security Agent may direct the insurers to pay such moneys to the Security Agent).

43. NOTICES

- 43.1 [Other than in respect of the Charter Guarantee in force on the date of this Deed]⁶ subject to Clause 41.1(b), the Owner shall give written notice (in the form of the Insurance Notice in respect of the assignment of the Vessel's Obligatory Insurances, the Charter Notice in respect of the assignment of the Charter⁷, the Charter Guarantee Notice in respect of the assignment of the Charter Guarantee and the Ship Manager Notice in respect of the assignment of the Ship Management Agreement and otherwise in such form as the Security Agent shall require consistent with this Clause 43) of the assignment in this Deed to anyone from whom any part of the Assigned Property is or may be due and provide the Security Agent with as many of such notices signed by the Owner as the Security Agent may require.
- 43.2 The Owner shall on the date of this Deed give notice:
- (a) of the assignment by this Deed of its rights under the Ship Management Agreement in the form of the Ship Manager Notice;
 - (b) of the assignment by this Deed of its rights under the Charter in the form of the Charter Notice labelled Part 1 in Schedule 4, unless the charterer is Orient Overseas Container Line (U.K.) Limited, or an Affiliate of it, in which case the Owner may give notice of the assignment by this Deed of its rights under the Charter in the form of the Charter Notice labelled Part 2 in Schedule 4;
 - (c) [of the assignment by this Deed of its rights under the Charter Guarantee in the form of the Charter Guarantee Notice;]⁸and
 - (d) of the assignment by this Deed of its rights under the Obligatory Insurances in the form of the Insurance Notice.
- 43.3 The Owner shall use reasonable endeavours to procure that any notice given pursuant to this Clause 43 is acknowledged by the recipient in the manner attached to such form, or
- (a) prior to the Term Lender Discharge Date, any other form approved in writing by the Security Agent acting on the instructions of the Term Agent; and
 - (b) at any time thereafter, in any other form not materially less favourable to the Secured Parties remaining at such time, as determined in good faith by the Parent and certified to the Security Agent in an officer's certificate.
- 43.4 The Owner shall ensure that the interest of the Security Agent as assignee of the Vessel's Obligatory Insurances is endorsed on all insurance policies and other documents for such Obligatory Insurances by the incorporation of a Loss Payable Clause and an Insurance Notice signed by the Owner and each other person assured under the relevant cover (other than the Security Agent itself).

44. PRESERVATION OF SECURITY

44.1 Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of any Debtor or any security for those obligations or otherwise) is made by a Secured Party in whole or in

⁶ Language to be included for initial GSL 22 / Ningbo charter guarantee only.

⁷ Use Part 2 of the Charter Notice in Schedule if the charterer is OOCL, and Part 1 for other charterers.

⁸ Remove from GSL 22 / Ningbo GA only

part on the faith of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of the Owner under this Deed will continue or be reinstated as if the discharge, release or arrangement had not occurred.

44.2 Waiver of defences

The obligations of the Owner under this Deed will not be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under this Deed (without limitation and whether or not known to it or to any Secured Party), including:

- (a) any time, waiver or consent granted to, or composition with, any Debtor or any other person;
- (b) the release of any Debtor or any other person;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Debtor or any other person;
- (d) any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (e) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Debtor or any other person;
- (f) any amendment (however fundamental) or replacement of a Debt Document or any other document or security;
- (g) any unenforceability, illegality or invalidity of any obligation of any person under any Debt Document or any other document or security;
or
- (h) any insolvency or similar proceedings.

44.3 Immediate recourse

The Owner waives any right it may have of first requiring any Secured Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Owner under this Deed. This waiver applies irrespective of any law or any provision of a Debt Document to the contrary.

44.4 Appropriations

Until the Secured Obligations have been irrevocably and unconditionally discharged in full, each Secured Party (or any trustee or agent on its behalf) or a Receiver may:

- (a) refrain from applying or enforcing any other money, security or rights held or received by it (or any trustee or agent on its behalf) in respect of the Secured Obligations, or apply and enforce the same in the manner and order it thinks fit (whether against those amounts or otherwise) and the Owner will not be entitled to the benefit of the same; and

(b) hold in an interest-bearing suspense account any money received from the Owner or on account of the Owner's liability under this Deed.

44.5 Deferral of Owner's rights

Unless the Security Agent otherwise directs, the Owner will not exercise any rights (including rights of set-off) which it may have by reason of performance by it of its obligations under the Debt Documents or by reason of any amount being payable, or liability arising, under this Deed:

- (a) to be indemnified or reimbursed by any other Debtor;
- (b) to claim any contribution from any other Debtor in relation to any Debtor's obligations under the Debt Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Parties under the Debt Documents or of any other guarantee or security taken under, or in connection with, the Debt Documents by any Secured Party;
- (d) to bring legal or other proceedings for an order requiring any other Debtor to make any payment, or perform any obligation, in respect of which the Owner has given a guarantee, undertaking or indemnity under this Deed;
- (e) to exercise any right of set-off against any other Debtor; and/or
- (f) to claim or prove as a creditor of any other Debtor in competition with any Secured Party.

44.6 If the Owner receives any benefit, payment or distribution in relation to such rights it must hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Secured Parties by the Debtors under or in connection with the Debt Documents to be repaid in full on trust for the Secured Parties and must promptly pay an equal amount to the Security Agent or as the Security Agent may direct for application in accordance with this Deed.

45. RESTRICTIONS AND FILINGS

45.1 Restrictions

The Owner must not:

- (a) create or permit to subsist any Security on or over any Security Assets; or
 - (b) either in a single transaction or in a series of transactions (whether related or not and whether voluntarily or involuntarily) sell, transfer, assign, lease, sub-license, hire out or otherwise dispose of all or any part of the Security Assets or the right to receive or to be paid the proceedings arising on the disposal of the same, or agree or attempt to do so; or
 - (c) dispose of the equity of redemption in respect of all or any part of the Security Assets,
- (in each case) except as permitted under the Secured Debt Documents.

45.2 [Filings and Notices

[The Owner shall, within 15 (fifteen) days from the date of this Deed:

- (a) make a filing of this Deed and the necessary forms at the Cyprus Companies Registry for the registration of a charge and deliver to the Security Agent evidence that the filing has been made and the Cyprus Registrar of Companies fees have been paid; and
- (b) make an entry of the particulars of this Deed in its register of charges maintained at its registered office and deliver to the Security Agent a certified true copy of the register of charges evidencing that this has been done.

The Owner shall, immediately upon receipt, deliver to the Security Agent a certificate of charge issued by the Cyprus Registrar of Companies evidencing that the Cyprus Registrar of Companies has registered a charge in favour of the Security Agent in relation to the security created by this Deed.]

46. PERFECTION AND PROTECTION OF SECURITY

The Owner shall, at its own expense, take whatever action as may be necessary, or upon the request of the Security Agent or a Receiver at any time and from time to time, for:

- (a) creating, perfecting or protecting any security intended to be created by or pursuant to this Deed;
- (b) facilitating the realisation of any Security Asset; or
- (c) facilitating the exercise of any right, power or discretion exercisable by the Security Agent or any Receiver or any of their respective delegates or sub-delegates in respect of any Security Asset.

This includes:

- (i) the re-execution of this Deed;
 - (ii) the execution of any legal mortgage, charge, transfer, conveyance, assignment or assurance of any property, whether to the Security Agent or to its nominee; and
 - (iii) the giving of any notice, order or direction and the making of any filing or registration,
- which, in any such case, the Security Agent (acting reasonably) may think expedient.

47. REPRESENTATIONS

The Owner represents and warrants that:

- (a) it is the sole legal and beneficial owner of the Assigned Property free from all Security except as permitted by the Secured Debt Documents;
- (b) it has not disposed of any of Assigned Property except as permitted by the Secured Debt Documents; and

- (c) this Deed creates the Security it purports to create and is not liable to be avoided or otherwise set aside on its liquidation or administration or otherwise.

48. INSURANCE

48.1 Insurance terms

In this Clause 48:

approved brokers means reputable marine insurance brokers.

approved insurers or associations means reputable marine insurers and protection and indemnity or war risks associations which are members of the International Group of protection and indemnity associations (or, if the International Group ceases to exist any other leading protection and indemnity or war risks association or other leading provider of protection and indemnity or war risks insurance).

excess risks means the proportion (if any) of claims for general average, salvage and salvage charges not recoverable under the hull and machinery insurances of a vessel in consequence of the value at which the vessel is assessed for the purpose of such claims exceeding its insured value.

excess war risk P&I cover means cover for claims only in excess of amounts recoverable under the usual war risk cover including (but not limited to) hull and machinery, crew and protection and indemnity risks.

hull cover means insurance cover against the risks identified in paragraph (a) of Clause 48.2 (Coverage required).

minimum hull cover means an amount equal at the relevant time to the charter-attached market value of the Vessel.

P&I risks means the usual risks (including liability for oil pollution, excess war risk P&I cover) covered by a protection and indemnity association which is a member of the International Group of protection and indemnity associations (or, if the International Group ceases to exist, any other leading protection and indemnity association or other leading provider of protection and indemnity insurance) (including, without limitation, the proportion (if any) of any collision liability not covered under the terms of the hull cover).

48.2 Coverage required

The Owner shall insure the Vessel at all times:

- (a) against fire and usual marine risks (including excess risks) and war risks (including war protection and indemnity risks and terrorism risks) on an agreed value basis, for at least its minimum hull cover value;
- (b) against P&I risks for the highest amount then available in the insurance market for vessels of similar age, size and type as the Vessel and customarily taken out by leading operators of such vessels;
- (c) if the Vessel is laid up, against port or lay-up risks in lieu of the insurance described in (a) and (b) above;

- (d) against such other risks and matters which are required under the terms of the applicable Charter or under applicable law or regulation; and
- (e) on terms which comply with the other provisions of this Clause 48.

48.3 Placing of cover

The insurance coverage required by Clause 48.2 (Coverage required) shall be:

- (a) in the name of the Owner;
- (b) if the Security Agent so requests, in the joint names of the Owner and the Security Agent (and any other Secured Party required by the Security Agent) (and, to the extent reasonably practicable in the insurance market, without liability on the part of the Security Agent or such Secured Party for premiums or calls);
- (c) in Dollars or another approved currency;
- (d) arranged through approved brokers or direct with approved insurers or associations;
- (e) in full force and effect; and
- (f) on industry standard terms and with approved insurers or associations.

48.4 Deductibles

The aggregate amount of any excess or deductible under the Vessel's hull and machinery cover shall not exceed US\$1,000,000 or US\$5,000,000 under the Vessel's war risk hull cover.

48.5 Fleet liens, set off and cancellations

If the Vessel's hull cover also insures other vessels, the Security Agent shall either be given an undertaking in standard insurance market terms by the brokers or (if such cover is not placed through brokers or the brokers do not, under any applicable laws or insurance terms, have such rights of set off and cancellation) the relevant insurers that the brokers or (if relevant) the insurers will not:

- (a) set off against any claims in respect of the Vessel any premiums due in respect of any of such other vessels insured; or
- (b) cancel that cover because of non-payment of premiums in respect of such other vessels,

or the Owner shall ensure that hull cover for the Vessel is provided under a separate policy from any other vessels.

48.6 Payment of premiums

The Owner shall procure that all premiums, calls, contributions or other sums payable in respect of the Obligatory Insurances in respect of the Vessel shall be paid punctually and the Security Agent shall be provided with all relevant receipts or other evidence of payment upon request.

48.7 Details of proposed renewal of Obligatory Insurances

At least fourteen (14) days before any of the Vessel's Obligatory Insurances are due to expire, the Owner shall procure that the Security Agent shall be notified of the names of the brokers, insurers and associations proposed to be used for the renewal of such Obligatory Insurances and the amounts, risks and terms in, against and on which the Obligatory Insurances are proposed to be renewed.

48.8 Instructions for renewal

At least seven (7) days before any of the Vessel's Obligatory Insurances are due to expire, The Owner shall procure that instructions are given to brokers, insurers and associations for them to be renewed or replaced on or before their expiry.

48.9 Confirmation of renewal

The Owner shall procure that the Vessel's Obligatory Insurances are renewed upon their expiry in a manner and on terms which comply with this Clause 48 and confirmation of such renewal given by approved brokers or insurers to the Security Agent within fourteen (14) days after such expiry.

48.10 P&I guarantees

Any guarantee or undertaking required by any protection and indemnity or war risks association in relation to the Vessel shall be provided when required by the association.

48.11 Insurance documents

The Owner shall provide the Security Agent with pro forma copies of all insurance policies and other documentation issued by brokers, insurers and associations in connection with the Vessel's Obligatory Insurances as soon as they are available after they have been placed or renewed and shall procure that all insurance policies and other documents relating to the Vessel's Obligatory Insurances are deposited with any approved brokers or (if not deposited with approved brokers) the Security Agent.

48.12 Letters of undertaking

The Owner shall procure that, within 10 Business Days of the date of this Deed and thereafter on each placing or renewal of the Vessel's Obligatory Insurances, the Security Agent shall be provided with letters of undertaking in a form (having regard to general insurance market practice and law at the time of issue of such letter of undertaking) from the relevant brokers, insurers and associations which is:

- (a) prior to the Term Lender Discharge Date, approved in writing by the Security Agent acting on the instructions of the Term Agent; and
- (b) at any time thereafter, in any other form not materially less favourable to the Secured Parties than the last form approved pursuant to paragraph (a) above as determined in good faith by the Parent and certified to the Security Agent in an officer's certificate.

48.13 Insurance correspondence

If so required by the Security Agent when an Event of Default is continuing, the Owner shall promptly provide to the Security Agent copies of all written communications between the assureds and brokers, insurers and associations relating to any of the Vessel's Obligatory Insurances as soon as they are available.

48.14 Qualifications and exclusions

The Owner must comply with all requirements applicable to the Vessel's Obligatory Insurances under the Debt Documents.

48.15 Collection of claims

The Owner shall provide all documents and other information and all assistance required by the Security Agent to assist it in trying to collect or recover any claims under the Vessel's Obligatory Insurances promptly.

48.16 Employment of Vessel

The Owner shall procure that the Vessel shall only be employed or operated in conformity with the terms of the Vessel's Obligatory Insurances (including any express or implied warranties) and not in any other way (unless the insurers have consented and any additional requirements of the insurers have been satisfied).

48.17 Declarations and returns

If any of the Vessel's Obligatory Insurances are on terms that require a declaration, certificate or other document to be made or filed before the Vessel sails to, or operates within, an area, the Owner shall procure that those terms shall be complied with within the time and in the manner required by those Obligatory Insurances.

48.18 Application of recoveries

All sums paid under the Vessel's Obligatory Insurances to anyone other than the Security Agent shall be applied in repairing the damage and/or in discharging the liability in respect of which they have been paid except to the extent that the repairs have already been paid for and/or the liability already discharged.

49. ASSIGNED CONTRACT UNDERTAKINGS

49.1 Releases and waivers

Except in compliance with the terms of the Secured Debt Documents, the Owner must not (a) release any obligation of any other person under an Assigned Contract (including by way of novation or assignment), (b) waive any breach of any such obligation and (c) consent to anything which would otherwise be such a breach which, in each case, is materially adverse to the interests of the Secured Parties, except:

- (a) prior to the Term Lender Discharge Date, with the prior written approval of the Security Agent on the instructions of the Term Agent; and
- (b) at any time thereafter, where the Parent certifies to the Security Agent in an officer's certificate that it has determined in good faith that such release, waiver or consent (as the case may be) would not materially adversely affect the rights of the Secured Parties remaining at such time.

49.2 Assigned Contract performance

- (a) The Owner shall perform in all material respects its obligations under the Assigned Contracts.
- (b) The Owner shall take all such reasonable action as may be reasonably necessary to enforce its rights promptly under the Assigned Contracts and to collect any and all sums owing to it under the Assigned Contracts, if, in either case, failure to do so will materially affect the ability of the Debtors (taken as a whole) to fulfil their respective obligations under the Debt Documents.

49.3 Termination and amendment of Charter

The Owner shall not amend or waive any term of, or terminate, or take any other action with respect to the Assigned Contracts, except in compliance with the Secured Debt Documents.

49.4 Sharing of Earnings

- (a) The Owner shall not enter into any arrangement under which the Earnings may be shared with anyone else except as set out below or:
 - (i) prior to the Term Lender Discharge Date, with the prior written approval of the Security Agent on the instructions of the Term Agent; and
 - (ii) at any time thereafter, where the Parent certifies to the Security Agent in an officer's certificate that it has determined in good faith that such arrangement (as the case may be) would not materially adversely affect the rights of the Secured Parties remaining at such time.
- (b) The Owner shall be entitled to enter into pooling arrangements with respect to the Vessel on arm's length terms.
- (c) The Owner shall be entitled to pay commission to brokers and other persons to whom commission is customarily paid in connection with the chartering of the Vessel.

50. DEALINGS WITH VESSEL

50.1 Undertaking to comply

The Owner undertakes that this Clause 50 will be complied with in relation to the Vessel throughout the Security Period

50.2 Vessel's name and registration

- (a) The Vessel shall be registered with the relevant Registry under the laws of the Flag State and, except as permitted by the Secured Debt Documents, the Vessel shall not be registered under any other flag or at any other port or fly any other flag (other than that of its Flag State). If that registration is for a limited period, it shall be renewed at least forty-five (45) days before the date it is due to expire and the Security Agent shall be notified of that renewal at least thirty (30) days before that date;
- (b) Nothing will be done and no action will be omitted if that might result in such registration being forfeited or imperilled or the Vessel being required to be registered under the laws of another state of registry.

50.3 Sale or other disposal of Vessel

The Owner will not sell, or agree to, transfer, abandon or otherwise dispose of the Vessel or any share or interest in it except as permitted under the Secured Debt Documents.

50.4 Manager

The Owner shall procure that the crew and technical management of the Vessel is performed by a Manager, and the commercial management of the Vessel is performed by a member of the Group.

50.5 Copy of Mortgage on board

A properly certified copy of the Mortgage shall be kept on board the Vessel with its papers and shown to anyone having business with the Vessel which might create or imply any commitment or Security over or in respect of the Vessel (other than a lien for crew's wages and salvage) and to any representative of the Security Agent.

50.6 Notice of Mortgage

A framed printed notice of the Mortgage shall be prominently displayed in the navigation room and in the master's cabin of the Vessel. The notice must be in plain type and read as follows:

“NOTICE OF MORTGAGE

This Vessel is subject to a first mortgage in favour of [•] of [here insert address of mortgagee]. Under the said mortgage and related documents, neither the Owner nor any charterer nor the Master of this Vessel has any right, power or authority to create, incur or permit to be imposed upon this Vessel any commitments or encumbrances whatsoever other than for crew's wages and salvage.”

No-one will have any right, power or authority to create, incur or permit to be imposed upon the Vessel any lien whatsoever other than a Permitted Lien.

50.7 Conveyance on default

Where the Vessel is (or is to be) sold in exercise of any power conferred by the Secured Debt Documents, the Owner shall, upon the Security Agent's request, immediately execute such form of transfer of title to the Vessel as the Security Agent may require.

51. CONDITION AND OPERATION OF VESSEL

51.1 Undertaking to comply

The Owner undertakes that this Clause 51 will be complied with in relation to the Vessel throughout the period referred to in Clause 1.2 and 1.2(c).

51.2 Defined terms

In this Clause 51:

applicable code means any code, convention or prescribed procedures required to be observed by the Vessel or the persons responsible for its operation under any applicable law (including but not limited to those currently known as the ISM Code and the ISPS Code).

applicable law means all laws and regulations applicable to vessels registered in the Vessel's Flag State or which for any other reason apply to the Vessel or to its condition or operation at any relevant time.

applicable operating certificate means any certificates, vessel response plans, or other document relating to the Vessel or its condition or operation required to be in force under any applicable law or any applicable code.

51.3 **Repair**

The Vessel shall be kept in a good, safe and efficient state of repair. The quality of workmanship and materials used to repair the Vessel or replace any damaged, worn or lost parts or equipment shall be sufficient to ensure that the Vessel's value is not reduced.

51.4 **Modification**

The structure, type or performance characteristics of the Vessel shall not be modified in a way which could or might materially alter the Vessel or materially reduce its value, except:

- (a) prior to the Term Lender Discharge Date, with the prior written approval of the Security Agent acting on the instructions of the Term Agent; and
- (b) at any time thereafter, where the Parent has certified to the Security Agent in an officer's certificate that it has determined in good faith that such modification would not materially adversely affect the value of the Vessel.

51.5 **Removal of parts**

No material part of the Vessel or any equipment shall be removed from the Vessel if to do so would materially reduce its value (unless at the same time it is replaced with equivalent parts or equipment owned by Owner free of any Security except under the Debt Documents or Permitted Liens), except:

- (a) prior to the Term Lender Discharge Date, with the prior written approval of the Security Agent acting on the instructions of the Term Agent; and
- (b) at any time thereafter, where the Parent has certified to the Security Agent in an officer's certificate that it has determined in good faith that the removal of such parts would not materially adversely affect the rights of the Secured parties remaining at such time.

51.6 **Third party owned equipment**

Equipment owned by a third party shall not be installed on the Vessel if it cannot be removed without risk of causing damage to the structure or fabric of the Vessel or incurring significant expense, except:

- (a) prior to the Term Lender Discharge Date, with the prior written approval of the Security Agent acting on the instructions of the Term Agent; and

- (b) at any time thereafter, where the Parent has certified to the Security Agent in an officer's certificate that it has determined in good faith that such installation would not materially adversely affect the value of the Vessel or the rights of the Secured Parties remaining at such time.

51.7 Maintenance of class; compliance with laws, regulations and codes

The Vessel's class shall be the Classification. The Owner shall and shall procure that the Vessel and every person who owns, operates or manages the Vessel shall comply in all respects with all applicable laws and regulations to which it is subject where failure to do so is reasonably likely to have a Material Adverse Effect and the requirements of all applicable codes. There shall be kept in force and on board the Vessel or in such person's custody any applicable operating certificates which are required by applicable laws or applicable codes to be carried on board the Vessel or to be in such person's custody.

51.8 Surveys

The Vessel shall be submitted to periodic surveys and any other surveys which are required for it to maintain the Classification as its class. Copies of reports of those surveys shall be provided promptly to the Security Agent if it so requests.

51.9 Inspection and notice of dry-docking

The Security Agent and/or surveyors or other persons appointed by it for such purpose shall be allowed to board the Vessel at all reasonable times to inspect it and given all proper facilities needed for that purpose, in each case at the cost of the Owner. The Security Agent shall be given reasonable advance notice of any intended dry-docking of the Vessel (whatever the purpose of that dry-docking).

51.10 Prevention of arrest

All debts, damages, liabilities and outgoings which have given, or may give, rise to maritime, statutory or possessory liens on, or claims enforceable against, the Vessel, its Earnings or Insurances shall be promptly paid and discharged when due and owing.

51.11 Release from arrest

The Vessel, its Earnings and Insurances shall promptly, be released from any arrest, detention, attachment or levy, and any legal process against the Vessel shall be promptly discharged, by whatever action is required to achieve that release or discharge.

51.12 Information about Vessel

The Security Agent shall promptly be given any information which it may reasonably require about the Vessel or its employment, position, classification, use or operation, including details of towages and salvages, and copies of all its charter commitments or pooling arrangements (if any) entered into by or on behalf of any Debtor and which are not subject to confidentiality obligations to third parties or imposed by law and copies of any applicable operating certificates.

51.13 Notification of certain events

The Security Agent shall promptly be notified of:

- (a) any damage to the Vessel where the cost of the resulting repairs may exceed the Major Casualty Amount;
- (b) any occurrence which may result in the Vessel becoming a Total Loss;
- (c) any requisition of the Vessel for hire;
- (d) any Environmental Incident involving the Vessel and Environmental Claim being made in relation to such an incident;
- (e) any withdrawal or threat to withdraw any applicable operating certificate;
- (f) any requirement or recommendation made in relation to the Vessel by any insurer or the Classification Society or by any competent authority which is not, or cannot be, complied with in the manner or time required or recommended; and
- (g) any arrest or detention of the Vessel or any exercise or purported exercise of a lien or other claim on the Vessel or its Earnings or Insurances.

51.14 Payment of outgoings

All tolls, dues and other outgoings whatsoever in respect of the Vessel and its Earnings and Insurances shall be paid promptly. Proper accounting records shall be kept of the Vessel and its Earnings.

51.15 Repairers' liens

The Vessel shall not be put into any other person's possession for work to be done on the Vessel if the cost of that work will exceed or is likely to exceed the Major Casualty Amount unless that person gives the Security Agent a written undertaking in approved terms not to exercise any lien on the Vessel or its Earnings for any of the cost of such work or it is demonstrated to the Security Agent's reasonable satisfaction that funds will be available to meet the full cost of that work, whether from insurers or otherwise. Approved terms for the purposes of the above will be:

- (a) prior to the Term Lender Discharge Date, as approved in writing by the Security Agent acting on the instructions of the Term Agent; and
- (b) at any time thereafter, in any other terms not materially less favourable to the Secured Parties remaining at such time than the terms approved under paragraph (a) above as determined in good faith by the Parent and certified to the Security Agent in an officer's certificate.

51.16 Lawful use

The Vessel shall not be employed:

- (a) in any way or in any activity which is unlawful under international law or the domestic laws of any relevant country;
- (b) in carrying illicit, contraband or prohibited goods; or
- (c) in a way which may make it liable to be condemned by a prize court or destroyed, seized or confiscated and the persons responsible for the operation of the Vessel shall take all necessary and proper precautions to ensure that this does not happen.

51.17 War zones

Not during hostilities in any part of the world (whether or not a state of war shall have been formally declared) to employ or permit the Vessel to be employed in, or enter or trade to any zone which is declared a war zone by any government or by the Vessel's war risks insurers unless the consent of the relevant insurer is obtained and the Mortgagor complies with such requirements as to payment of extra premium or otherwise as the insurers may impose.

52. ENFORCEMENT

52.1 Timing

This Security will become immediately enforceable if an Event of Default occurs and is continuing.

52.2 Enforcement

After this Security has become enforceable in accordance with Clause 52.1 (Timing), the Security Agent may in its absolute discretion enforce all or any part of this Security in accordance with the terms of the Intercreditor Agreement.

52.3 General

(a) The power of sale and any other power conferred on a mortgagee by law (including under section 101 of the Act) as varied or amended by this Deed will be immediately exercisable at any time after this Security has become enforceable and, in addition, the Security Agent may:

- (i) exercise any of the Owner's rights under the Assigned Contracts, including any right to terminate or rescind an Assigned Contract;
- (ii) agree with any party to an Assigned Contract to terminate or rescind or amend or vary or replace that Assigned Contract or any person's obligations under it on such terms and conditions as the Security Agent and that party may mutually agree;
- (iii) require that all documents and records relating to the Vessel's Obligatory Insurances be delivered immediately to the Security Agent or its nominee;
- (iv) collect, recover and give a good discharge for any moneys or claims in respect of the Security Assets and permit any brokers through whom collection or recovery is effected to charge the usual brokerage for doing so;
- (v) assign the Security Assets;
- (vi) settle, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person relating to the Security Assets;
- (vii) bring, prosecute, defend or abandon any action, suit or proceedings in relation to the Security Assets; and/or
- (viii) do anything incidental or conducive to the exercise of its rights as assignee of the Security Assets.

- (b) For the purposes of all powers implied by law, the Secured Obligations are deemed to have become due and payable on the date of this Deed.
- (c) Any restriction imposed by law on the power of sale (including under section 103 of the Act) or the right of a mortgagee to consolidate mortgages (including under section 93 of the Act) does not apply to this Security.
- (d) Any powers of leasing conferred on the Security Agent by law are extended so as to authorise the Security Agent to lease, make agreements for leases, accept surrenders of leases and grant options as the Security Agent may think fit and without the need to comply with any restrictions conferred by law (including under section 99 or 100 of the Act).

52.4 No liability as mortgagee in possession

Neither the Security Agent nor any Receiver will be liable, by reason of entering into possession of a Security Asset:

- (a) to account as mortgagee in possession or for any loss on realisation; or
- (b) for any default or omission for which a mortgagee in possession might be liable.

52.5 Privileges

Each Receiver and the Security Agent is entitled to all the rights, powers, privileges and immunities conferred by law (including the Act) on mortgagees and receivers duly appointed under any law (including the Act).

52.6 Protection of third parties

No person (including a purchaser) dealing with the Security Agent or a Receiver or its or his agents will be concerned to enquire:

- (a) whether the Secured Obligations have become payable;
- (b) whether any power which the Security Agent or a Receiver is purporting to exercise has become exercisable or is being properly exercised;
- (c) whether any money remains due under the Secured Debt Documents; or
- (d) how any money paid to the Security Agent or to that Receiver is to be applied.

52.7 Redemption of prior mortgages

- (a) At any time after this Security has become enforceable, the Security Agent may:
 - (i) redeem any prior Security against any Security Asset; and/or
 - (ii) procure the transfer of that Security to itself; and/or
 - (iii) settle and pass the accounts of the prior mortgagee, chargee or encumbrancer; any accounts so settled and passed will be, in the absence of manifest error, conclusive and binding on the Owner.

- (b) The Owner must pay to the Security Agent, immediately on demand, the costs and expenses incurred by the Security Agent in connection with any such redemption and/or transfer, including the payment of any principal or interest.

53. RECEIVER

53.1 Appointment of Receiver

- (a) Except as provided below, the Security Agent may appoint any one or more persons to be a Receiver of all or any part of the Security Assets if:
 - (i) this Security has become enforceable in accordance with Clause 52.1 (Timing); or
 - (ii) the Owner so requests the Security Agent in writing at any time.
- (b) Any appointment under paragraph (a) above may be by deed, under seal or in writing under its hand.
- (c) Except as provided below, any restriction imposed by law on the right of a mortgagee to appoint a Receiver (including under section 109(1) of the Act) does not apply to this Deed.
- (d) The Security Agent is not entitled to appoint a Receiver solely as a result of the obtaining of a moratorium (or anything done with a view to obtaining a moratorium) under section 1A to the Insolvency Act 1986.
- (e) The Security Agent may not appoint an administrative receiver (as defined in section 29(2) of the Insolvency Act 1986) over the Security Assets if the Security Agent is prohibited from so doing by section 72A of the Insolvency Act 1986 and no exception to the prohibition on appointing an administrative receiver applies.

53.2 Removal

The Security Agent may by writing under its hand (subject to any requirement for an order of the court in the case of an administrative receiver) remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

53.3 Remuneration

The Security Agent may fix the remuneration of any Receiver appointed by it and any maximum rate imposed by any law (including under section 109(6) of the Act) will not apply.

53.4 Agent of the Owner

- (a) A Receiver will be deemed to be the agent of the Owner for all purposes and accordingly will be deemed to be in the same position as a Receiver duly appointed by a mortgagee under the Act. The Owner is solely responsible for the contracts, engagements, acts, omissions, defaults and losses of a Receiver and for liabilities incurred by a Receiver, unless directly caused by the Receiver's gross negligence or wilful misconduct.
- (b) No Secured Party will incur any liability (either to the Owner or to any other person) by reason of the appointment of a Receiver or for any other reason.

53.5 Relationship with Security Agent

To the fullest extent allowed by law, any right, power or discretion conferred by this Deed (either expressly or impliedly) or by law on a Receiver may after this Security becomes enforceable be exercised by the Security Agent in relation to any Security Asset without first appointing a Receiver or notwithstanding the appointment of a Receiver.

54. POWERS OF RECEIVER

54.1 General

(a) Subject to the terms of any Quiet Enjoyment Letter, a Receiver has all the rights, powers and discretions set out below in this Clause in addition to those conferred on it by any law. This includes:

- (i) in the case of an administrative receiver, all the rights, powers and discretions conferred on an administrative receiver under the Insolvency Act 1986; and
- (ii) otherwise, all the rights, powers and discretions conferred on a receiver (or a receiver and manager) under the Act and the Insolvency Act 1986.

(b) If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all the powers conferred on a Receiver under this Deed individually and to the exclusion of any other Receiver.

54.2 Possession

A Receiver may take immediate possession of, get in and collect any Security Asset.

54.3 Carry on business

A Receiver may carry on any business of the Owner in any manner he thinks fit.

54.4 Borrow money

A Receiver may raise and borrow money either unsecured or on the security of any Security Asset either in priority to this Security or otherwise and generally on any terms and for whatever purpose which he thinks fit.

54.5 Sale of assets

(a) A Receiver may sell, exchange, convert into money and realise any Security Asset by public auction or private contract and generally in any manner and on any terms which he thinks fit.

(b) The consideration for any such transaction may consist of cash, debentures or other obligations, shares, stock or other valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over any period which he thinks fit.

54.6 Compromise

A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claim, account, dispute, question or demand with or by any person who is or claims to be a creditor of the Owner or relating in any way to any Security Asset.

54.7 Legal actions

A Receiver may bring, prosecute, enforce, defend and abandon any action, suit or proceedings in relation to any Security Asset which he thinks fit.

54.8 Receipts

A Receiver may give a valid receipt for any moneys and execute any assurance or thing which may be proper or desirable for realising any Security Asset.

54.9 Delegation

A Receiver may delegate his powers in accordance with this Deed.

54.10 Other powers

A Receiver may:

- (a) do all other acts and things which he may consider desirable or necessary for realising any Security Asset or incidental or conducive to any of the rights, powers or discretions conferred on a Receiver under or by virtue of this Deed or by law;
- (b) exercise in relation to any Security Asset all the powers, authorities and things which he would be capable of exercising if he were the absolute beneficial owner of that Security Asset; and

use the name of the Owner for any of the above purposes.

54.11 Contingencies

If this security is enforced at a time when no amount is due under the Secured Debt Documents but at a time when amounts may or will become due, the Security Agent (or the Receiver) may pay the proceeds of the recoveries into a suspense account.

55. APPLICATION OF PROCEEDS

- (a) All moneys received by the Security Agent in the exercise of its rights under this Deed shall be applied in accordance with clause 15 (Order of application) of the Intercreditor Agreement.
- (b) If the moneys applied in this way are not sufficient fully to pay and discharge the Secured Obligations, the Owner shall continue to be liable for the balance of the Secured Obligations.

56. POWER OF ATTORNEY

56.1 The Owner by way of security irrevocably appoints each of the Security Agent and any Receiver severally to be its attorney (with full powers of substitution) in its name and on its behalf to do all things which the attorney may consider necessary or desirable to enable it:

- (a) to perform any action which the Owner is obliged to take under this Deed;
- (b) to exercise any of the rights, powers and authorities conferred on it by this Deed or by law; or

(c) to record this Deed and any document executed pursuant to Clause 45.1 (*Perfection and protection of security*) in any court, public office or elsewhere.

56.2 The power of attorney in this Clause 56 may only be exercised following the occurrence of an Event of Default and for so long as such Event of Default is continuing but the exercise of such power shall be conclusive evidence of the Security Agent's or the Receiver's right to exercise it and no person dealing with the Security Agent or the Receiver shall need to enquire whether an Event of Default has occurred and is continuing, or shall be affected by notice that no Event of Default has occurred or that an Event of Default is not continuing. The Owner ratifies and confirms whatever the attorney does or purports to do under Clause 56.1.

57. CONTINUING SECURITY

57.1 This Deed and the obligations of the Owner under this Deed shall extend to the ultimate balance owing in respect of the Secured Obligations, regardless of any intermediate payment in whole or in part.

57.2 This Deed is in addition to and is not in any way prejudiced by any other security, guarantee, right, power or remedy now or subsequently held by the Security Agent or any of the other Secured Parties.

57.3 Neither the Security Agent nor any Receiver shall be obliged to enquire about the nature or sufficiency of any payment received by it under this Deed or to take any action to enforce this Deed.

57.4 The Owner shall remain liable to perform all its obligations in relation to the Assigned Property and the Security Agent is not responsible for those obligations.

58. MISCELLANEOUS

58.1 Covenant to pay

The Owner must pay or discharge the Secured Obligations in the manner provided for in the Secured Debt Documents.

58.2 Tacking

Each Secured Party must perform its obligations under the Secured Debt Documents (including any obligation to make available further advances).

58.3 New Accounts

(a) If any subsequent charge or other interest affects any Security Asset, any Secured Party may open a new account with the Owner.

(b) If a Secured Party does not open a new account, it will nevertheless be treated as if it had done so at the time when it received or was deemed to have received notice of that charge or other interest.

(c) As from that time all payments made to that Secured Party will be credited or be treated as having been credited to the new account and will not operate to reduce any Secured Obligation.

58.4 Time deposits

Without prejudice to any right of set-off any Secured Party may have under any Secured Debt Document or otherwise, if any time deposit matures on any account the Owner has with any Secured Party within the Security Period when:

- (a) this Security has become enforceable; and
- (b) no Secured Obligation is due and payable,

that time deposit will automatically be renewed for any further maturity which that Secured Party in its absolute discretion considers appropriate unless that Secured Party otherwise agrees in writing.

58.5 Notice of assignment

This Deed constitutes notice in writing to the Owner of any charge or assignment of a debt or other obligation owed by the Owner to any other member of the Group and contained in any other Transaction Security Document (including, without limitation, any debts and obligations under the Intra-Group Debts).

58.6 Financial collateral

- (a) To the extent that the assets mortgaged or charged under this Deed constitute “financial collateral” and this Deed and the obligations of the Owner under this Deed constitute a “security financial collateral arrangement” (in each case for the purpose of and as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226)) the Security Agent shall have the right after this Security has become enforceable in accordance with Clause 52.1 (Timing) to appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Obligations.
- (b) For the purpose of paragraph (a) above, the value of the financial collateral appropriated shall be such amount as the Security Agent reasonably determines having taken into account advice obtained by it from an independent investment or accountancy firm of national standing selected by it.

59. NOTICES

Any communication to be made under or in connection with this Deed shall be made in writing and, unless otherwise stated, may be made by fax, email or letter, and in accordance with clause 23 (Notices) of the Intercreditor Agreement.

60. RELEASE

At the end of the Security Period or where otherwise required or permitted by the Intercreditor Agreement, the Security Agent must, at the request and cost of the Owner, take whatever action is reasonably necessary to release the Security Assets from this Security.

61. COUNTERPARTS

This Deed may be executed in any number of counterparts and all of those counterparts taken together shall be deemed to constitute one and the same instrument.

62. ENFORCEMENT COSTS

The Owner shall, on demand by the Security Agent, pay (and indemnify the Security Agent and any Receiver against) all costs, expenses, liabilities or other amounts incurred by the Security Agent, any other Secured Party or any Receiver in connection with:

- (a) the taking, holding, protection, enforcement or preservation of this Deed;
- (b) the exercise or purported exercise of any of the rights, powers, discretions and remedies vested in the Security Agent and each Receiver by this Deed or by law unless and to the extent that it was caused by its gross negligence or wilful misconduct;
- (c) any claim (whether relating to the environment or otherwise) made or asserted against it which would not have arisen but for the execution or enforcement of this Deed (unless and to the extent it is caused by its gross negligence or wilful misconduct); or
- (d) any amendment, waiver, consent or release of this Deed,

and pay any remuneration payable to any Receiver.

63. BENEFIT OF DEED

The Security Agent may assign its rights under this Deed to any person appointed as Security Agent under the Intercreditor Agreement. It is intended that this document takes effect as a deed even though the Security Agent may only execute it under hand.

64. GOVERNING LAW AND ENFORCEMENT

64.1 This Deed and any non-contractual obligations connected with it are governed by English law.

64.2 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed or any non-contractual obligations connected with this Deed (including a dispute regarding the existence, validity or termination of this Deed) (a **Dispute**).

64.3 The parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and, accordingly, that they shall not argue to the contrary.

64.4 Notwithstanding Clause 64.2, the Security Agent shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Agent may take concurrent proceedings in any number of jurisdictions.

64.5 Without prejudice to any other mode of service allowed under any relevant law, the Owner:

- (a) irrevocably appoints the person named in Schedule 17 as its agent for service of process in relation to any proceedings before the English courts in connection with this Deed;
- (b) agrees that failure by the process agent to notify the Owner of the process shall not invalidate the proceedings concerned; and

- (c) if any person appointed as process agent for the Owner is unable for any reason to act as agent for service of process, the Owner must immediately (and in any event within ten (10) days of such event taking place) appoint another agent on terms acceptable to the Security Agent. Failing this, the Security Agent may appoint another agent for this purpose.

This Deed has been executed as a deed, and it has been delivered on the date stated at the beginning of this Deed.

SCHEDULE 17
VESSEL INFORMATION

The Vessel

Name: m.v. "[•]"
Flag State: [•]
[Port of Registry: [•]]
Official Number: [•]
IMO Number: [•]
Classification: [•]
Classification Society: [•]
Major Casualty Amount: US\$2,000,000 (United States Dollars two million)

Owner

Country of incorporation: [•]
Registered number: [•]
Registered office:

The Charter and Charterer

Charter

Date: [•]
Description: [time charter][bareboat charter][demise charter] in relation to the Vessel dated [•] between the Owner and the Charterer [*insert details of addenda, supplements, side letters etc.*]

ALLEN & OVERY

Allen & Overy LLP

Charterer

Name of Charterer: [CMA CGM S.A.] [Orient Overseas Container Line (U.K.) Limited]
Country of incorporation of Charterer: [France] [Cayman Islands]
Registered number of Charterer: [562 024 422 R.C.S. Marseille] [123322]
Registered office of Charterer: [4, quai d'Arenc, 13235 Marseille Cedex 02, France] [PO Box 3119, Grand Pavilion, Hibiscus Way, 802 West Bay Road, Grand Cayman KY1-1205, Cayman Islands]

Charter Guarantee

Date: [•]
Guarantor: [•]

Ship Management Agreement

Date: [•]
Manager: [•]

SCHEDULE 18
INSURANCE NOTICE

(For attachment by way of endorsement to the Policy)

[insert name of Owner] of **[insert address of Owner]** the Owner of the m.v. "**[insert name of Vessel]**" (the **Vessel**) **GIVES NOTICE** that by a first priority Deed of Assignment dated **[date]** and entered into by us with Citibank, N.A., London Branch of Citigroup Centre, Canada Square, London E14 5LB, UK, there has been assigned by us to **[•]** as first mortgagees of the Vessel all insurances in respect of the Vessel, including the insurances constituted by the Policy on which this notice is endorsed.

Signed

For and on behalf of

[insert name of Owner]

2017

SCHEDULE 19
LOSS PAYABLE CLAUSES

Loss Payable Clause for hull and machinery (marine and war risks) insurances

By a first priority Deed of Assignment dated [date] [insert the name of Owner] of [insert address of Owner] (the **Owner**) has assigned to Citibank, N.A., London Branch of Citigroup Centre, Canada Square, London E14 5LB, UK (the **Security Agent**) all the Owner's rights under and to all policies and contracts of insurance from time to time taken out or entered into by or for the benefit of the Owner in respect of m.v. "[insert name of Vessel]" and accordingly all claims under this policy shall be paid to [insert details of the relevant Owner's Earnings Account] unless and until the Security Agent shall have notified the insurers under this policy to the contrary, whereupon all such claims shall be paid to the Security Agent or to its order

Loss Payable Clause for protection and indemnity risks cover

Payment of any recovery which [insert name of Owner] of [insert address of Owner] (the **Owner**) is entitled to make out of the funds of the Association in respect of any liability, costs or expenses incurred by the Owner, shall be made to the Owner or to its order, unless and until the Association receives notice to the contrary from Citibank, N.A., London Branch of Citigroup Centre, Canada Square, London E14 5LB, UK (the **Security Agent**) in which event all recoveries shall after such time be paid to the Security Agent or its order; provided always that no liability whatsoever shall attach to the Association, its Managers or their agents for failure to comply with the latter obligation until the expiry of two (2) clear business days from the receipt of such notice.

SCHEDULE 20

CHARTERER NOTICE (PART 1)

To: [•]
From: [insert name of Owner]
Date: [•]

Dear Sirs,

m.v. “[insert name of Vessel]” (the Vessel)

6. We refer to:

- (a) the time charterparty in respect of the Vessel entered into between us and you dated [•] (as amended, restated, novated, supplemented or replaced from time to time) (the Time Charter); and
- (b) a Deed of Assignment entered into between us and Citibank, N.A., London Branch, in its capacity as security agent for and on behalf of the Secured Parties (the Security Agent) dated [•] (the Assignment).

7. Terms defined in the Assignment (whether defined in the Assignment or incorporated by reference) shall have the same meaning in this notice.

8. This letter constitutes notice to you that, by the Assignment, we have assigned to the Security Agent absolutely by way of Security all of our rights, title and interest, present and future, in and to the Time Charter and the Earnings payable thereunder as set out in the Assignment.

9. We confirm that:

- (a) We will remain liable under the Time Charter to perform all of the obligations assumed by us under the Time Charter.
- (b) We have, by way of Security, irrevocably and severally appointed the Security Agent, together with any Receiver appointed by the Security Agent and any of its Delegates as our attorney to take any action which we are obliged to take under the Assignment after an Event of Default has occurred which is continuing. None of the Security Agent, its agents, any receiver or any other person will at any time be under any obligation or liability to you under or in respect of the Time Charter.
- (c) We will remain entitled to exercise all of our rights, powers and discretions under the Time Charter, and you should continue to give notices under the Time Charter to us, unless and until you receive notice from the Security Agent to the contrary stating that an Event of Default has occurred and is continuing. In this event, all of the rights, powers and discretions will be exercisable by, and notices must be given to, the Security Agent or as it directs.
- (d) Following a notice from the Security Agent that an Event of Default has occurred and is continuing, you are irrevocably authorised and directed to pay all amounts payable under or pursuant to the Time Charter to such account as the Security Agent may specify.

-
10. The authority and instructions herein contained cannot be revoked or varied by us without the consent of the Security Agent.
 11. Please acknowledge receipt of this notice by executing and delivering to us and to the Security Agent the attached acknowledgement.

Yours faithfully,

Authorised Signatory
for and on behalf of
[insert name of Owner]
as Assignor

Acknowledgement from Charterer

To: Citibank, N.A., London Branch
Citigroup Centre
Canada Square
London
E14 5LB
UK,
(in its capacity as security agent for and on behalf of each of the Secured Parties (the **Security Agent**))

Copied to: **[insert name of Owner]** (the **Assignor**)

Date: [•]

Dear Sirs,

m.v. “[insert name of Vessel]” (the Vessel)

We acknowledge receipt from the Assignor of a notice (the **Notice**) dated [•] of an assignment on the terms of the Deed of Assignment dated [•] between the Assignor and the Security Agent of all of the Assignor’s rights in respect of the Time Charter (as defined in the Notice).

We confirm that we have received no other notice of any assignment of, or charge over, the Time Charter or any sums payable thereunder. We acknowledge receipt of the Notice from the Assignor and agree and undertake to be bound by its terms.

This letter is governed by English law.

Yours faithfully,

Authorised Signatory
for and on behalf of
[•]

CHARTERER NOTICE (PART 2)

To: [•]
From: [insert name of Owner]
Date: [•]

Dear Sirs,

m.v. “[insert name of Vessel]” (the Vessel)

12. We refer to:
- (a) the time charterparty in respect of the Vessel entered into between us and you dated [•] (as amended, restated, novated, supplemented or replaced from time to time) (the Time Charter); and
 - (b) an assignment entered into between us and Citibank, N.A., London Branch, in its capacity as security agent for and on behalf of the Secured Parties (the Security Agent) dated [•] (the Assignment).
13. Terms defined in the Assignment (whether defined in the Assignment or incorporated by reference) shall have the same meaning in this notice.
14. This letter constitutes notice to you that, by the Assignment, we have assigned to the Security Agent absolutely by way of Security all of our rights, title and interest, present and future, in and to the Time Charter and the Earnings payable thereunder as set out in the Assignment.
15. We confirm that:
- (a) We will remain liable under the Time Charter to perform all of the obligations assumed by us under the Time Charter.
 - (b) We have, by way of Security, irrevocably and severally appointed the Security Agent, together with any Receiver appointed by the Security Agent and any of its Delegates as our attorney to take any action which we are obliged to take under the Assignment after an Event of Default has occurred. None of the Security Agent, its agents, any receiver or any other person will at any time be under any obligation or liability to you under or in respect of the Time Charter.
 - (c) We will remain entitled to exercise all of our rights, powers and discretions under the Time Charter, and you should continue to give notices under the Time Charter to us, unless and until you receive notice from the Security Agent to the contrary stating that an Event of Default has occurred and is, at the time such notice is given, continuing. In this event, all of the rights, powers and discretions will be exercisable by, and notices must be given to, the Security Agent or as it directs.
 - (d) Following a notice from the Security Agent that an Event of Default has occurred and is continuing, you are irrevocably authorised and directed to pay all amounts payable under or pursuant to the Time Charter to such account as the Security Agent may specify.

-
16. The authority and instructions herein contained cannot be revoked or varied by us without the consent of the Security Agent.
 17. Please acknowledge receipt of this notice by executing and delivering to us and to the Security Agent the attached acknowledgement.

Yours faithfully,

Authorised Signatory
for and on behalf of
[insert name of Owner]
as Assignor

Acknowledgement from Charterer

To: Citibank, N.A., London Branch
Citigroup Centre
Canada Square
London
E14 5LB
UK,
(in its capacity as security agent for and on behalf of each of the Secured Parties (the **Security Agent**))

Copied to: **[insert name of Owner]** (the **Assignor**)

Date: [•]

Dear Sirs,

m.v. “[insert name of Vessel]” (the Vessel)

We acknowledge receipt from the Assignor of a notice (the **Notice**) dated [•] of an assignment on the terms of the Deed of Assignment dated [•] between the Assignor and the Security Agent of all of the Assignor’s rights in respect of the Time Charter (as defined in the Notice).

We confirm that we have received no other notice of any assignment of, or charge over, the Time Charter or any sums payable thereunder. We acknowledge receipt of the Notice from the Assignor and, provided that it is not inconsistent with the Time Charter, we agree and undertake to be bound by its terms.

This letter is governed by English law.

Yours faithfully,

Authorised Signatory
for and on behalf of
[•]

CHARTER GUARANTOR NOTICE

To: [•]
From: [insert name of Owner]
Date: [•]

Dear Sirs,

m.v. “[insert name of Vessel]” (the Vessel)

18. We refer to:
- (a) the time charterparty in respect of the Vessel entered into between us and [•] (the **Charterer**) dated [•] (as amended, restated, novated, supplemented or replaced from time to time) (the **Time Charter**);
 - (b) the guarantee issued by you in our favour in respect of the Charterer’s obligations to us under the Time Charter dated [•] (as amended, restated, novated, supplemented or replaced from time to time) (the **Guarantee**); and
 - (c) a Deed of Assignment entered into between us and Citibank, N.A., London Branch, in its capacity as security agent for and on behalf of the Secured Parties (the Security Agent) dated [•] (the Assignment).
19. Terms defined in the Assignment (whether defined in the Assignment or incorporated by reference) shall have the same meaning in this notice.
20. This letter constitutes notice to you that, by the Assignment, we have assigned to the Security Agent absolutely by way of security all of our rights, title and interest, present and future, in and to the Guarantee and any amounts payable thereunder as set out in the Assignment.
21. We confirm that:
- (a) We will remain liable under the Guarantee to perform all of the obligations assumed by us under the Guarantee.
 - (b) We have, by way of Security, irrevocably and severally appointed the Security Agent, together with any Receiver appointed by the Security Agent and any of its Delegates as our attorney to take any action which we are obliged to take under the Assignment after an Event of Default has occurred and is continuing. None of the Security Agent, its agents, any receiver or any other person will at any time be under any obligation or liability to you under or in respect of the Guarantee.
 - (c) We will remain entitled to exercise all of our rights, powers and discretions under the Guarantee, and you should continue to give notices under the Guarantee to us, unless and until you receive notice from the Security Agent to the contrary stating that an Event of Default has occurred and is continuing. In this event, all of the rights, powers and discretions will be exercisable by, and notices must be given to, the Security Agent or as it directs.

(d) Following a notice from the Security Agent that an Event of Default has occurred and is continuing, you are irrevocably authorised and directed to pay all amounts payable under or pursuant to the Guarantee to such account as the Security Agent may specify.

22. The authority and instructions herein contained cannot be revoked or varied by us without the consent of the Security Agent.

23. Please acknowledge receipt of this notice by executing and delivering to us and to the Security Agent the attached acknowledgement.

Yours faithfully,

Authorised Signatory
for and on behalf of
[insert name of Owner]
as Assignor

Acknowledgement from Charter Guarantor

To: Citibank, N.A., London Branch
Citigroup Centre
Canada Square
London
E14 5LB
UK,
(in its capacity as security agent for and on behalf of each of the Secured Parties (the **Security Agent**))

Copied to: **[insert name of Owner]** (the **Assignor**)

Date: [•]

Dear Sirs,

m.v. “[insert name of Vessel]” (the Vessel)

We acknowledge receipt from the Assignor of a notice (the **Notice**) dated [•] of an assignment on the terms of the Deed of Assignment dated [•] between the Assignor and the Security Agent of all of the Assignor’s rights in respect of the Guarantee (as defined in the Notice).

We confirm that we have received no other notice of any assignment of, or charge over, the Guarantee or any sums payable thereunder. We acknowledge receipt of the Notice from the Assignor and agree and undertake to be bound by its terms.

This letter is governed by English law.

Yours faithfully,

Authorised Signatory
for and on behalf of
[•]

SCHEDULE 22

SHIP MANAGER NOTICE

To: [Manager]
From: [•]
Date: [•]

Dear Sirs,

m.v. “[Vessel name]”

1. We refer to:
 - (a) the management agreement between us and you dated [•] (the “**Management Agreement**”); and
 - (b) an assignment between ourselves and Citibank, N.A., London Branch in its capacity as security agent for and on behalf of the Secured Parties (the “**Security Agent**”) dated [•] 2017 (the “**Deed of Assignment**”).
2. Terms defined in the Deed of Assignment (whether defined in the Deed of Assignment or incorporated by reference) shall have the same meaning in this notice.
3. This letter constitutes notice to you that, by the Deed of Assignment, we have assigned to the Security Agent absolutely by way of Security all of our rights, title and interest, present and future, in and to the Management Agreement.

We confirm that:

- (a) We will remain liable under the Management Agreement to perform all of the obligations assumed by us under the Management Agreement.
- (b) We have, by way of Security, irrevocably and severally appointed the Security Agent, together with any Receiver appointed by the Security Agent and any of its Delegates as our attorney to take any action which we are obliged to take under the Deed of Assignment after an Event of Default has occurred and for so long as such Event of Default is continuing. None of the Security Agent, its agents, any receiver or any other person will at any time be under any obligation or liability to you under or in respect of the Management Agreement.
- (c) We will remain entitled to exercise all of our rights, powers and discretions under the Management Agreement, and you should continue to give notices under the Management Agreement to us, unless and until you receive notice from the Security Agent to the contrary stating that an Event of Default has occurred and is, at the time such notice is given, continuing. In this event, all of the rights, powers and discretions will be exercisable by, and notices must be given to, the Security Agent or as it directs.
- (d) Please note that, except as permitted in the Secured Debt Documents, we have agreed that we will not make, or agree to make, any amendment to any provision of the Management Agreement. We have also agreed that we will not terminate or take any other action with respect to the Management Agreement. The authority and instructions herein contained cannot be revoked or varied by us without the consent of the Security Agent.

Please acknowledge receipt of this notice by executing and delivering to us and to the Security Agent the attached acknowledgement.

Yours faithfully,

Authorised Signatory
for and on behalf of
[•]
as Assignor

ACKNOWLEDGEMENT SHIP MANAGER

From: [•]

To: Citibank, N.A., London Branch
Citigroup Centre
Canada Square
London
E14 5LB
UK,
(in its capacity as security agent for and on behalf of each of the Secured Parties (the **Security Agent**))

Copied to: [•] (the “**Assignor**”)

Date: [•]

Dear Sirs,

We acknowledge receipt from the Assignor of a notice (the “**Notice**”) dated [•] of an assignment on the terms of the Deed of Assignment dated [•] 2017 between the Assignor and the Security Agent of all of the Assignor’s rights in respect of the Management Agreement.

We confirm that we have received no other notice of any assignment or, or charge over, the Management Agreement or any sums payable thereunder. We acknowledge receipt of the Notice from the Assignor and agree and undertake to be bound by its terms.

This letter is governed by English law.

Yours faithfully,

Authorised Signatory
for and on behalf of
[•]

SIGNATORIES

The Owner

[EXECUTED as a **DEED** for and on behalf of
[INSERT NAME OF OWNER])
by [])
and)
[])
duly authorised representatives)
pursuant to Resolutions signed by all the Directors
dated [•]
in the presence of:

Witness

Name:

Address

Accupation:]⁹

[SEALED with the **COMMON SEAL** of
[•]

and signed by [name of director]
as director]¹⁰

The Security Agent¹¹

SIGNED by)
CITIBANK, N.A., LONDON BRANCH)

[Signature/Title]

⁹ Execution block for Cypriot entities.
¹⁰ Execution block for HK entities
¹¹ Execution block TBC

APPENDIX 2

FORM OF INTRACOMPANY LOAN ASSIGNMENT

DEED OF ASSIGNMENT

2017

**GLOBAL SHIP LEASE, INC.
as Parent**

and

**CITIBANK, N.A., LONDON BRANCH
as Security Agent**

**This Deed of Assignment is subject to the terms
of an Intercreditor Agreement dated 2017**

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THIS DEED is dated 2017 and made **BETWEEN**:

- (10) **GLOBAL SHIP LEASE, INC.**, a corporation incorporated according to the laws of the Republic of the Marshall Islands with its registered office at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands MH 96960 (the **Parent**); and
- (11) **CITIBANK, N.A., LONDON BRANCH** as security agent for the Secured Parties (as defined in the Intercreditor Agreement referred to below) (the **Security Agent**).

BACKGROUND:

- (C) The Parent enters into this Deed in connection with the Secured Debt Documents.
- (D) It is intended that this document takes effect as a deed notwithstanding the fact that a party may only execute this document under hand.

IT IS AGREED as follows:

65. INTERPRETATION

65.1 Definitions

- (a) Terms defined in the Intercreditor Agreement have, unless expressly defined in this Deed, the same meaning when used in this Deed.
- (b) In this Deed:

Act means the Law of Property Act 1925.

Assigned Property means all of the rights which the Parent has now or may obtain at any time in the future under or in connection with any Intra-Group Loan Agreements.

Initial Intra-Group Loan Agreement means the intra-group loan agreement dated 2017 and made between the Parent as lender and the companies listed in schedule 1 thereto as borrowers;

Intra-Group Loan Agreements means:

- (a) the Initial Intra-Group Loan Agreement; and
- (b) any loan or other similar agreement under which the Parent makes loans, credit or other financial arrangements available to any other Credit Facility Guarantor from time to time.

Intercreditor Agreement means the intercreditor agreement dated 2017 and made between, among others, Global Ship Lease, Inc. as the parent and issuer, Citibank International plc as term agent, Citibank, N.A., London Branch as senior secured note trustee and the Security Agent.

Notice of Assignment means the notice of assignment in the form set out in Schedule 23 or:

- (a) prior to the Term Lender Discharge Date, any other form approved in writing by the Security Agent acting on the instructions of the Term Agent; and

- (b) at any time thereafter, in any other form not materially less favourable to the Secured Parties remaining at such time, as determined in good faith by the Parent and certified to the Security Agent in an officer's certificate.

Receiver means an administrative receiver, a receiver and manager or a receiver, in each case, appointed under this Deed.

Secured Debt Document means each of this Deed, the Intercreditor Agreement, the Credit Facility Documents, the Pari Passu Debt Documents, the Security Documents and any other document designated as such by the Security Agent and the Parent.

Secured Obligations means all the Liabilities and all other present and future liabilities and obligations at any time due, owing or incurred by any member of the Group and by each Debtor to any Secured Party under the Debt Documents, both actual and contingent and whether incurred solely or jointly and as principal or surety or in any other capacity.

Security Assets means all assets from time to time of the Parent which are the subject of this Security.

Security Period means the period beginning on the date of this Deed and ending on the earlier of:

- (c) the Final Discharge Date; and
- (d) the date of any release of this Security required under the provisions of the Intercreditor Agreement.

65.2 Construction

(a) Unless a contrary indication appears, a reference in this Deed to:

- (i) **assets** includes present and future properties, revenues and rights of every description;
- (ii) a **Debt Document** or any other agreement or instrument is a reference to that Debt Document, or other agreement or instrument, as amended (including any increase in, extension of or change to any facility made available under that Debt Document), novated, supplemented, extended or restated as permitted by this Deed;
- (iii) **enforcing** (or any derivation) this Deed includes:
 - (A) the appointment of an administrator (or any analogous officer in any jurisdiction) of a Debtor by the Security Agent; and
 - (B) the making of a demand under clause 18.2 (Parallel debt) of the Intercreditor Agreement by the Security Agent;
- (iv) a **person** includes any individual, trust, firm, fund, company, corporation, partnership, joint venture, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
- (v) **proceeds** of a Distressed Disposal or of a Debt Disposal includes proceeds in cash;
- (vi) a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but if not having the force of law being one with which it is the practice of the relevant person to comply) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation; and

- (vii) a provision of **law** is a reference to that provision as amended or re-enacted.
- (b) The term **this Security** means any security created by this Deed.
- (c) Any covenant of the Parent under this Deed (other than a payment obligation) remains in force only during the Security Period.
- (d) If the Security Agent considers that an amount paid to a Secured Party under a Secured Debt Document is capable of being avoided or otherwise set aside on the liquidation or administration of the payer or otherwise, then that amount will not be considered to have been irrevocably paid for the purposes of this Deed.
- (e) Unless the context otherwise requires, a reference to a Security Asset includes:
 - (i) any part of that Security Asset;
 - (ii) any proceeds of that Security Asset; and
 - (iii) any present and future assets of that type.
- (f) If there is a conflict between the provisions of this Deed and the Intercreditor Agreement, the Intercreditor Agreement shall prevail.

65.3 Third party rights

- (a) Unless expressly provided to the contrary in this Deed, a person who is not a party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 (the Third Parties Act) to enforce or to enjoy the benefit of any term of this Deed.
- (b) Notwithstanding any term of this Deed, the consent of any person who is not a Party is not required to rescind or vary this Deed at any time.
- (c) Any Secured Party that is not a Party may enforce and enjoy the benefit of any Clause which expressly confers rights on it, subject to paragraph (b) above and the provisions of the Third Parties Act.

66. CREATION OF SECURITY

66.1 General

- (a) All Security created under this Deed:
 - (i) is created in favour of the Security Agent;
 - (ii) is security for the payment, discharge and performance of all the Secured Obligations; and
 - (iii) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

- (b) The Security Agent holds the benefit of this Deed on trust for the Secured Parties.
- (c) The fact that no or incomplete details of any Security Assets are referred to in this Deed does not affect the validity or enforceability of this Security.

66.2 Assigned Property

- (a) Subject to paragraph (b), below, the Parent assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights in respect of the Assigned Property.
- (b) To the extent that any right described in paragraph (a) above is not assignable or capable of assignment, the assignment of that right purported to be effected by paragraph (a) shall operate as an assignment of any damages, compensation, remuneration, profit, rent or income which the Parent may derive from that right or be awarded or entitled to in respect of that right.

67. NOTICES

- 67.1 The Parent shall give written notice (in the form of the Notice of Assignment and otherwise in such form as the Security Agent shall require consistent with this Clause 43) of the assignment in this Deed to anyone from whom any part of the Assigned Property is or may be due and provide the Security Agent with as many of such notices signed by the Parent as the Security Agent may require.
- 67.2 The Parent shall on the date of this Deed give notice of the assignment by this Deed of its rights under the Initial Intra-Group Loan Agreement in the form of the Notice of Assignment.
- 67.3 If any party accedes to the Initial Intra-Group Loan Agreement as borrower, the Parent shall, on the date of such accession, give notice of the assignment by this by this Deed of its rights under the Intra-Group Loan Agreements in the form of the Notice of Assignment.
- 67.4 The Parent shall use reasonable endeavours to procure that any notice given pursuant to this Clause 43 is acknowledged by the recipient in the manner attached to such form.

68. PRESERVATION OF SECURITY

68.1 Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of any Debtor or any security for those obligations or otherwise) is made by a Secured Party in whole or in part on the faith of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of the Parent under this Deed will continue or be reinstated as if the discharge, release or arrangement had not occurred.

68.2 Waiver of defences

The obligations of the Parent under this Deed will not be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under this Deed (without limitation and whether or not known to it or to any Secured Party), including:

- (a) any time, waiver or consent granted to, or composition with, any Debtor or any other person;
- (b) the release of any Debtor or any other person;

- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Debtor or any other person;
- (d) any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (e) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Debtor or any other person;
- (f) any amendment (however fundamental) or replacement of a Debt Document or any other document or security;
- (g) any unenforceability, illegality or invalidity of any obligation of any person under any Debt Document or any other document or security; or
- (h) any insolvency or similar proceedings.

68.3 Immediate recourse

The Parent waives any right it may have of first requiring any Secured Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Parent under this Deed. This waiver applies irrespective of any law or any provision of a Debt Document to the contrary.

68.4 Appropriations

Until the Secured Obligations have been irrevocably and unconditionally discharged in full, each Secured Party (or any trustee or agent on its behalf) or a Receiver may:

- (a) refrain from applying or enforcing any other money, security or rights held or received by it (or any trustee or agent on its behalf) in respect of the Secured Obligations, or apply and enforce the same in the manner and order it thinks fit (whether against those amounts or otherwise) and the Parent will not be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any money received from the Parent or on account of the Parent's liability under this Deed.

68.5 Deferral of Parent's rights

Unless the Security Agent otherwise directs, the Parent will not exercise any rights (including rights of set-off) which it may have by reason of performance by it of its obligations under the Debt Documents or by reason of any amount being payable, or liability arising, under this Deed:

- (a) to be indemnified or reimbursed by any other Debtor;
- (b) to claim any contribution from any other Debtor in relation to any Debtor's obligations under the Debt Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Parties under the Debt Documents or of any other guarantee or security taken under, or in connection with, the Debt Documents by any Secured Party;

- (d) to bring legal or other proceedings for an order requiring any other Debtor to make any payment, or perform any obligation, in respect of which the Parent has given a guarantee, undertaking or indemnity under this Deed;
- (e) to exercise any right of set-off against any other Debtor; and/or
- (f) to claim or prove as a creditor of any other Debtor in competition with any Secured Party.

68.6 If the Parent receives any benefit, payment or distribution in relation to such rights it must hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Secured Parties by the Debtors under or in connection with the Debt Documents to be repaid in full on trust for the Secured Parties and must promptly pay an equal amount to the Security Agent or as the Security Agent may direct for application in accordance with this Deed.

69. RESTRICTIONS

The Parent must not:

- (a) create or permit to subsist any Security on or over any Security Assets; or
 - (b) either in a single transaction or in a series of transactions (whether related or not and whether voluntarily or involuntarily) sell, transfer, assign, lease, sub-license, hire out or otherwise dispose of all or any part of the Security Assets or the right to receive or to be paid the proceedings arising on the disposal of the same, or agree or attempt to do so; or
 - (c) dispose of the equity of redemption in respect of all or any part of the Security Assets,
- (in each case) except as permitted under the Secured Debt Documents.

70. PERFECTION AND PROTECTION OF SECURITY

The Parent shall, at its own expense, take whatever action as may be necessary, or upon the request of the Security Agent or a Receiver at any time and from time to time, for:

- (a) creating, perfecting or protecting any security intended to be created by or pursuant to this Deed;
- (b) facilitating the realisation of any Security Asset; or
- (c) facilitating the exercise of any right, power or discretion exercisable by the Security Agent or any Receiver or any of their respective delegates or sub-delegates in respect of any Security Asset.

This includes:

- (i) the re-execution of this Deed;
- (ii) the execution of any legal mortgage, charge, transfer, conveyance, assignment or assurance of any property, whether to the Security Agent or to its nominee; and
- (iii) the giving of any notice, order or direction and the making of any filing or registration, which, in any such case, the Security Agent (acting reasonably) may think expedient.

71. REPRESENTATIONS

The Parent represents and warrants that:

- (a) it is the sole legal and beneficial owner of the Assigned Property free from all Security except as permitted by the Secured Debt Documents;
- (b) it has not disposed of any of Assigned Property except as permitted by the Secured Debt Documents; and
- (c) this Deed creates the Security it purports to create and is not liable to be avoided or otherwise set aside on its liquidation or administration or otherwise.

72. INTRA-GROUP LOAN AGREEMENTS UNDERTAKINGS

72.1 Intra-Group Loan Agreements performance

- (a) The Parent shall perform in all material respects its obligations under the Intra-Group Loan Agreements.
- (b) The Parent shall take all such reasonable action as may be reasonably necessary to enforce its rights promptly under the Intra-Group Loan Agreements and to collect any and all sums owing to it under the Intra-Group Loan Agreements, if, in either case, failure to do so will materially affect the ability of the Debtors (taken as a whole) to fulfil their respective obligations under the Debt Documents.

72.2 Termination and amendment of Intra-Group Loan Agreements

The Parent shall not amend or waive any term of, or terminate, or take any other action with respect to the Intra-Group Loan Agreements, except in compliance with the Secured Debt Documents.

73. ENFORCEMENT

73.1 Timing

This Security will become immediately enforceable if an Event of Default occurs and is continuing.

73.2 Enforcement

After this Security has become enforceable in accordance with Clause 52.1 (Timing), the Security Agent may in its absolute discretion enforce all or any part of this Security in accordance with the terms of the Intercreditor Agreement.

73.3 General

- (a) The power of sale and any other power conferred on a mortgagee by law (including under section 101 of the Act) as varied or amended by this Deed will be immediately exercisable at any time after this Security has become enforceable and, in addition, the Security Agent may:
 - (i) exercise any of the Parent's rights under the Intra-Group Loan Agreements, including any right to terminate or rescind an Intra-Group Loan Agreement;

- (ii) agree with any party to an Intra-Group Loan Agreement to terminate or rescind or amend or vary or replace that Intra-Group Loan Agreement or any person's obligations under it on such terms and conditions as the Security Agent and that party may mutually agree;
 - (iii) collect, recover and give a good discharge for any moneys or claims in respect of the Security Assets and permit any brokers through whom collection or recovery is effected to charge the usual brokerage for doing so;
 - (iv) assign the Security Assets;
 - (v) settle, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person relating to the Security Assets;
 - (vi) bring, prosecute, defend or abandon any action, suit or proceedings in relation to the Security Assets; and/or
 - (vii) do anything incidental or conducive to the exercise of its rights as assignee of the Security Assets.
- (b) For the purposes of all powers implied by law, the Secured Obligations are deemed to have become due and payable on the date of this Deed.
- (c) Any restriction imposed by law on the power of sale (including under section 103 of the Act) or the right of a mortgagee to consolidate mortgages (including under section 93 of the Act) does not apply to this Security.
- (d) Any powers of leasing conferred on the Security Agent by law are extended so as to authorise the Security Agent to lease, make agreements for leases, accept surrenders of leases and grant options as the Security Agent may think fit and without the need to comply with any restrictions conferred by law (including under section 99 or 100 of the Act).

73.4 No liability as mortgagee in possession

Neither the Security Agent nor any Receiver will be liable, by reason of entering into possession of a Security Asset:

- (a) to account as mortgagee in possession or for any loss on realisation; or
- (b) for any default or omission for which a mortgagee in possession might be liable.

73.5 Privileges

Each Receiver and the Security Agent is entitled to all the rights, powers, privileges and immunities conferred by law (including the Act) on mortgagees and receivers duly appointed under any law (including the Act).

73.6 Protection of third parties

No person (including a purchaser) dealing with the Security Agent or a Receiver or its or his agents will be concerned to enquire:

- (a) whether the Secured Obligations have become payable;

- (b) whether any power which the Security Agent or a Receiver is purporting to exercise has become exercisable or is being properly exercised;
- (c) whether any money remains due under the Secured Debt Documents; or
- (d) how any money paid to the Security Agent or to that Receiver is to be applied.

73.7 Redemption of prior mortgages

- (a) At any time after this Security has become enforceable, the Security Agent may:
 - (i) redeem any prior Security against any Security Asset; and/or
 - (ii) procure the transfer of that Security to itself; and/or
 - (iii) settle and pass the accounts of the prior mortgagee, chargee or encumbrancer; any accounts so settled and passed will be, in the absence of manifest error, conclusive and binding on the Parent.
- (b) The Parent must pay to the Security Agent, immediately on demand, the costs and expenses incurred by the Security Agent in connection with any such redemption and/or transfer, including the payment of any principal or interest.

74. RECEIVER

74.1 Appointment of Receiver

- (a) Except as provided below, the Security Agent may appoint any one or more persons to be a Receiver of all or any part of the Security Assets if:
 - (i) this Security has become enforceable in accordance with Clause 52.1 (Timing); or
 - (ii) the Parent so requests the Security Agent in writing at any time.
- (b) Any appointment under paragraph (a) above may be by deed, under seal or in writing under its hand.
- (c) Except as provided below, any restriction imposed by law on the right of a mortgagee to appoint a Receiver (including under section 109(1) of the Act) does not apply to this Deed.
- (d) The Security Agent is not entitled to appoint a Receiver solely as a result of the obtaining of a moratorium (or anything done with a view to obtaining a moratorium) under section 1A to the Insolvency Act 1986.
- (e) The Security Agent may not appoint an administrative receiver (as defined in section 29(2) of the Insolvency Act 1986) over the Security Assets if the Security Agent is prohibited from so doing by section 72A of the Insolvency Act 1986 and no exception to the prohibition on appointing an administrative receiver applies.

74.2 Removal

The Security Agent may by writing under its hand (subject to any requirement for an order of the court in the case of an administrative receiver) remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

74.3 Remuneration

The Security Agent may fix the remuneration of any Receiver appointed by it and any maximum rate imposed by any law (including under section 109(6) of the Act) will not apply.

74.4 Agent of the Parent

- (a) A Receiver will be deemed to be the agent of the Parent for all purposes and accordingly will be deemed to be in the same position as a Receiver duly appointed by a mortgagee under the Act. The Parent is solely responsible for the contracts, engagements, acts, omissions, defaults and losses of a Receiver and for liabilities incurred by a Receiver, unless directly caused by the Receiver's gross negligence or wilful misconduct.
- (b) No Secured Party will incur any liability (either to the Parent or to any other person) by reason of the appointment of a Receiver or for any other reason.

74.5 Relationship with Security Agent

To the fullest extent allowed by law, any right, power or discretion conferred by this Deed (either expressly or impliedly) or by law on a Receiver may after this Security becomes enforceable be exercised by the Security Agent in relation to any Security Asset without first appointing a Receiver or notwithstanding the appointment of a Receiver.

75. POWERS OF RECEIVER

75.1 General

- (a) a Receiver has all the rights, powers and discretions set out below in this Clause in addition to those conferred on it by any law. This includes:
 - (i) in the case of an administrative receiver, all the rights, powers and discretions conferred on an administrative receiver under the Insolvency Act 1986; and
 - (ii) otherwise, all the rights, powers and discretions conferred on a receiver (or a receiver and manager) under the Act and the Insolvency Act 1986.
- (b) If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all the powers conferred on a Receiver under this Deed individually and to the exclusion of any other Receiver.

75.2 Possession

A Receiver may take immediate possession of, get in and collect any Security Asset.

75.3 Carry on business

A Receiver may carry on any business of the Parent in any manner he thinks fit.

75.4 Borrow money

A Receiver may raise and borrow money either unsecured or on the security of any Security Asset either in priority to this Security or otherwise and generally on any terms and for whatever purpose which he thinks fit.

75.5 Sale of assets

- (a) A Receiver may sell, exchange, convert into money and realise any Security Asset by public auction or private contract and generally in any manner and on any terms which he thinks fit.
- (b) The consideration for any such transaction may consist of cash, debentures or other obligations, shares, stock or other valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over any period which he thinks fit.

75.6 Compromise

A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claim, account, dispute, question or demand with or by any person who is or claims to be a creditor of the Parent or relating in any way to any Security Asset.

75.7 Legal actions

A Receiver may bring, prosecute, enforce, defend and abandon any action, suit or proceedings in relation to any Security Asset which he thinks fit.

75.8 Receipts

A Receiver may give a valid receipt for any moneys and execute any assurance or thing which may be proper or desirable for realising any Security Asset.

75.9 Delegation

A Receiver may delegate his powers in accordance with this Deed.

75.10 Other powers

A Receiver may:

- (a) do all other acts and things which he may consider desirable or necessary for realising any Security Asset or incidental or conducive to any of the rights, powers or discretions conferred on a Receiver under or by virtue of this Deed or by law;
- (b) exercise in relation to any Security Asset all the powers, authorities and things which he would be capable of exercising if he were the absolute beneficial owner of that Security Asset; and

use the name of the Parent for any of the above purposes.

75.11 Contingencies

If this security is enforced at a time when no amount is due under the Secured Debt Documents but at a time when amounts may or will become due, the Security Agent (or the Receiver) may pay the proceeds of the recoveries into a suspense account.

76. APPLICATION OF PROCEEDS

- (a) All moneys received by the Security Agent in the exercise of its rights under this Deed shall be applied in accordance with clause 15 (Order of application) of the Intercreditor Agreement.
- (b) If the moneys applied in this way are not sufficient fully to pay and discharge the Secured Obligations, the Parent shall continue to be liable for the balance of the Secured Obligations.

77. POWER OF ATTORNEY

77.1 The Parent by way of security irrevocably appoints each of the Security Agent and any Receiver severally to be its attorney (with full powers of substitution) in its name and on its behalf to do all things which the attorney may consider necessary or desirable to enable it:

- (a) to perform any action which the Parent is obliged to take under this Deed;
- (b) to exercise any of the rights, powers and authorities conferred on it by this Deed or by law; or
- (c) to record this Deed and any document executed pursuant to Clause 45.1 (*Perfection and protection of security*) in any court, public office or elsewhere.

77.2 The power of attorney in this Clause 56 may only be exercised following the occurrence of an Event of Default and for so long as such Event of Default is continuing but the exercise of such power shall be conclusive evidence of the Security Agent's or the Receiver's right to exercise it and no person dealing with the Security Agent or the Receiver shall need to enquire whether an Event of Default has occurred and is continuing, or shall be affected by notice that no Event of Default has occurred or that an Event of Default is not continuing. The Parent ratifies and confirms whatever the attorney does or purports to do under Clause 56.1.

78. CONTINUING SECURITY

- 78.1 This Deed and the obligations of the Parent under this Deed shall extend to the ultimate balance owing in respect of the Secured Obligations, regardless of any intermediate payment in whole or in part.
- 78.2 This Deed is in addition to and is not in any way prejudiced by any other security, guarantee, right, power or remedy now or subsequently held by the Security Agent or any of the other Secured Parties.
- 78.3 Neither the Security Agent nor any Receiver shall be obliged to enquire about the nature or sufficiency of any payment received by it under this Deed or to take any action to enforce this Deed.
- 78.4 The Parent shall remain liable to perform all its obligations in relation to the Assigned Property and the Security Agent is not responsible for those obligations.

79. MISCELLANEOUS

79.1 Covenant to pay

The Parent must pay or discharge the Secured Obligations in the manner provided for in the Secured Debt Documents.

79.2 Tacking

Each Secured Party must perform its obligations under the Secured Debt Documents (including any obligation to make available further advances).

79.3 Notice of assignment

This Deed constitutes notice in writing to the Parent of any charge or assignment of a debt or other obligation owed by the Parent to any other member of the Group and contained in any other Transaction Security Document (including, without limitation, any debts and obligations under the Intra-Group Debts).

79.4 Financial collateral

- (a) To the extent that the assets mortgaged or charged under this Deed constitute “financial collateral” and this Deed and the obligations of the Parent under this Deed constitute a “security financial collateral arrangement” (in each case for the purpose of and as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226)) the Security Agent shall have the right after this Security has become enforceable in accordance with Clause 52.1 (Timing) to appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Obligations.
- (b) For the purpose of paragraph (a) above, the value of the financial collateral appropriated shall be such amount as the Security Agent reasonably determines having taken into account advice obtained by it from an independent investment or accountancy firm of national standing selected by it.

80. NOTICES

Any communication to be made under or in connection with this Deed shall be made in writing and, unless otherwise stated, may be made by fax, email or letter, and in accordance with clause 23 (Notices) of the Intercreditor Agreement.

81. RELEASE

At the end of the Security Period or where otherwise required or permitted by the Intercreditor Agreement, the Security Agent must, at the request and cost of the Parent, take whatever action is reasonably necessary to release the Security Assets from this Security.

82. COUNTERPARTS

This Deed may be executed in any number of counterparts and all of those counterparts taken together shall be deemed to constitute one and the same instrument.

83. ENFORCEMENT COSTS

The Parent shall, on demand by the Security Agent, pay (and indemnify the Security Agent and any Receiver against) all costs, expenses, liabilities or other amounts incurred by the Security Agent, any other Secured Party or any Receiver in connection with:

- (a) the taking, holding, protection, enforcement or preservation of this Deed;
- (b) the exercise or purported exercise of any of the rights, powers, discretions and remedies vested in the Security Agent and each Receiver by this Deed or by law unless and to the extent that it was caused by its gross negligence or wilful misconduct;
- (c) any claim (whether relating to the environment or otherwise) made or asserted against it which would not have arisen but for the execution or enforcement of this Deed (unless and to the extent it is caused by its gross negligence or wilful misconduct); or
- (d) any amendment, waiver, consent or release of this Deed,

and pay any remuneration payable to any Receiver.

84. BENEFIT OF DEED

The Security Agent may assign its rights under this Deed to any person appointed as Security Agent under the Intercreditor Agreement. It is intended that this document takes effect as a deed even though the Security Agent may only execute it under hand.

85. GOVERNING LAW AND ENFORCEMENT

85.1 This Deed and any non-contractual obligations connected with it are governed by English law.

85.2 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed or any non-contractual obligations connected with this Deed (including a dispute regarding the existence, validity or termination of this Deed) (a **Dispute**).

85.3 The parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and, accordingly, that they shall not argue to the contrary.

85.4 Notwithstanding Clause 64.2, the Security Agent shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Agent may take concurrent proceedings in any number of jurisdictions.

85.5 Without prejudice to any other mode of service allowed under any relevant law, the Parent:

- (a) irrevocably appoints Citibank, N.A., London Branch as its agent for service of process in relation to any proceedings before the English courts in connection with this Deed;
- (b) agrees that failure by the process agent to notify the Parent of the process shall not invalidate the proceedings concerned; and
- (c) if any person appointed as process agent for the Parent is unable for any reason to act as agent for service of process, the Parent must immediately (and in any event within ten (10) days of such event taking place) appoint another agent on terms acceptable to the Security Agent. Failing this, the Security Agent may appoint another agent for this purpose.

This Deed has been executed as a deed, and it has been delivered on the date stated at the beginning of this Deed.

FORM OF NOTICE OF ASSIGNMENT

To: Global Ship Lease 3 Limited
Global Ship Lease 4 Limited
Global Ship Lease 5 Limited
Global Ship Lease 6 Limited
Global Ship Lease 7 Limited
Global Ship Lease 8 Limited
Global Ship Lease 9 Limited
Global Ship Lease 10 Limited
Global Ship Lease 12 Limited
Global Ship Lease 13 Limited
Global Ship Lease 14 Limited
Global Ship Lease 15 Limited
Global Ship Lease 16 Limited
Global Ship Lease 20 Limited
Global Ship Lease 21 Limited
Global Ship Lease 22 Limited
Global Ship Lease 23 Limited
GSL Alcazar Inc.

From: Global Ship Lease, Inc.

Date: [•]

Dear Sirs,

Intra-Group Loan dated [•] 2017

24. We refer to:
- (a) the intra-group loan agreement between us as lender and you as borrowers dated [•] (as amended, restated, novated, supplemented or replaced from time to time) (the **Loan**); and
 - (b) a Deed of Assignment entered into between us and Citibank, N.A., London Branch, in its capacity as security agent for and on behalf of the Secured Parties (the **Security Agent**) dated [•] 2017 (the **Assignment**).
25. Terms defined in the Assignment (whether defined in the Assignment or incorporated by reference) shall have the same meaning in this notice.
26. This letter constitutes notice to you that, by the Assignment, we have assigned to the Security Agent absolutely by way of Security all of our rights, title and interest, present and future, in and to the Loan as set out in the Assignment.
27. We confirm that:

- (a) We will remain liable under the Loan to perform all of the obligations assumed by us under the Loan.
- (b) We have, by way of Security, irrevocably and severally appointed the Security Agent, together with any Receiver appointed by the Security Agent and any of its Delegates as our attorney to take any action which we are obliged to take under the Assignment after an Event of Default has occurred which is continuing. None of the Security Agent, its agents, any receiver or any other person will at any time be under any obligation or liability to you under or in respect of the Loan.
- (c) We will remain entitled to exercise all of our rights, powers and discretions under the Loan, and you should continue to give notices under the Loan to us, unless and until you receive notice from the Security Agent to the contrary stating that an Event of Default has occurred and is continuing. In this event, all of the rights, powers and discretions will be exercisable by, and notices must be given to, the Security Agent or as it directs.
- (d) Following a notice from the Security Agent that an Event of Default has occurred and is continuing, you are irrevocably authorised and directed to pay all amounts payable under or pursuant to the Loan to such account as the Security Agent may specify.

28. The authority and instructions herein contained cannot be revoked or varied by us without the consent of the Security Agent.

29. Please acknowledge receipt of this notice by executing and delivering to us and to the Security Agent the attached acknowledgement.

Yours faithfully,

Authorised Signatory
for and on behalf of
Global Ship Lease, Inc.
as Assignor

Acknowledgement from Borrowers

To: Citibank, N.A., London Branch
Citigroup Centre
Canada Square
London
E14 5LB
UK,
(in its capacity as security agent for and on behalf of each of the Secured Parties (the **Security Agent**))

Copied to: Global Ship Lease, Inc. (the **Assignor**)

Date: [•]

Dear Sirs,

Intra-group loan dated [•]

We acknowledge receipt from the Assignor of a notice (the **Notice**) dated [•] 2017 of an assignment on the terms of the Deed of Assignment dated [•] 2017 between the Assignor and the Security Agent of all of the Assignor's rights in respect of the Loan (as defined in the Notice).

We confirm that we have received no other notice of any assignment of, or charge over, the Loan or any sums payable thereunder. We acknowledge receipt of the Notice from the Assignor and agree and undertake to be bound by its terms.

This letter is governed by English law.

GLOBAL SHIP LEASE 3 LIMITED

by

Name:

Title:

GLOBAL SHIP LEASE 5 LIMITED

by

Name:

Title:

GLOBAL SHIP LEASE 4 LIMITED

by

Name:

Title:

GLOBAL SHIP LEASE 6 LIMITED

by

Name:

Title:

GLOBAL SHIP LEASE 7 LIMITED

by

Name:

Title:

GLOBAL SHIP LEASE 9 LIMITED

by

Name:

Title:

GLOBAL SHIP LEASE 12 LIMITED

by

Name:

Title:

GLOBAL SHIP LEASE 14 LIMITED

by

Name:

Title:

GLOBAL SHIP LEASE 16 LIMITED

by

Name:

Title:

GLOBAL SHIP LEASE 8 LIMITED

by

Name:

Title:

GLOBAL SHIP LEASE 10 LIMITED

by

Name:

Title:

GLOBAL SHIP LEASE 13 LIMITED

by

Name:

Title:

GLOBAL SHIP LEASE 15 LIMITED

by

Name:

Title:

GSL ALCAZAR INC.

by

Name:

Title:

GLOBAL SHIP LEASE 20 LIMITED

by

Name:

Title:

GLOBAL SHIP LEASE 22 LIMITED

by

Name:

Title:

GLOBAL SHIP LEASE 21 LIMITED

by

Name:

Title:

GLOBAL SHIP LEASE 23 LIMITED

by

Name:

Title:

SIGNATORIES

The Owner

EXECUTED as a DEED)
for and on behalf of)
GSL ALCAZAR INC.)
in the presence of:)

Witness

Name:

Address:

Occupation:

The Security Agent

SIGNED by)
CITIBANK, N.A., LONDON BRANCH)

Title

Borrower

GLOBAL SHIP LEASE, INC.

By: /s/ Susan Cook
Name: Susan Cook

By: /s/ Thomas Lister
Name: Thomas Lister

The Arranger

CITIBANK, N.A., LONDON BRANCH

By: /s/ Alessandro Boraga
Name: Alessandro Boraga

The Bookrunner

CITIBANK, N.A., LONDON BRANCH

By: /s/ Alessandro Boraga
Name: Alessandro Boraga

The Original Lender

CITIBANK, N.A., LONDON BRANCH

By: /s/ Alessandro Boraga
Name: Alessandro Boraga

The Facility Agent

CITIBANK EUROPE PLC, UK BRANCH

By: /s/ John Summers

Name: John Summers

The Security Agent

CITIBANK, N.A., LONDON BRANCH

By: /s/ Stuart Sullivan

Name: Stuart Sullivan

Title: Vice President

Original Guarantors

GSL ALCAZAR INC.

By: /s/ Thomas Lister

Name: Thomas Lister

GLOBAL SHIP LEASE SERVICES LIMITED

By: /s/ Susan Cook

Name: Susan Cook

GLOBAL SHIP LEASE 3 LIMITED

By: /s/ Susan Cook

Name: Susan Cook

By: /s/ Thomas Lister
Name: Thomas Lister

GLOBAL SHIP LEASE 4 LIMITED

By: /s/ Susan Cook
Name: Susan Cook

By: /s/ Thomas Lister
Name: Thomas Lister

GLOBAL SHIP LEASE 5 LIMITED

By: /s/ Susan Cook
Name: Susan Cook

By: /s/ Thomas Lister
Name: Thomas Lister

GLOBAL SHIP LEASE 6 LIMITED

By: /s/ Susan Cook
Name: Susan Cook

By: /s/ Thomas Lister
Name: Thomas Lister

GLOBAL SHIP LEASE 7 LIMITED

By: /s/ Susan Cook
Name: Susan Cook

By: /s/ Thomas Lister
Name: Thomas Lister

GLOBAL SHIP LEASE 8 LIMITED

By: /s/ Susan Cook
Name: Susan Cook

By: /s/ Thomas Lister
Name: Thomas Lister

GLOBAL SHIP LEASE 9 LIMITED

By: /s/ Susan Cook
Name: Susan Cook

By: /s/ Thomas Lister
Name: Thomas Lister

GLOBAL SHIP LEASE 10 LIMITED

By: /s/ Susan Cook
Name: Susan Cook

By: /s/ Thomas Lister
Name: Thomas Lister

GLOBAL SHIP LEASE 12 LIMITED

By: /s/ Susan Cook
Name: Susan Cook

By: /s/ Thomas Lister
Name: Thomas Lister

GLOBAL SHIP LEASE 13 LIMITED

By: /s/ Susan Cook
Name: Susan Cook

By: /s/ Thomas Lister
Name: Thomas Lister

GLOBAL SHIP LEASE 14 LIMITED

By: /s/ Susan Cook
Name: Susan Cook

By: /s/ Thomas Lister
Name: Thomas Lister

GLOBAL SHIP LEASE 15 LIMITED

By: /s/ Susan Cook
Name: Susan Cook

By: /s/ Thomas Lister
Name: Thomas Lister

GLOBAL SHIP LEASE 16 LIMITED

By: /s/ Susan Cook
Name: Susan Cook

By: /s/ Thomas Lister
Name: Thomas Lister

GLOBAL SHIP LEASE 20 LIMITED

By: /s/ Thomas Lister
Name: Thomas Lister

GLOBAL SHIP LEASE 21 LIMITED

By: /s/ Thomas Lister
Name: Thomas Lister

GLOBAL SHIP LEASE 22 LIMITED

By: /s/ Thomas Lister
Name: Thomas Lister

GLOBAL SHIP LEASE 23 LIMITED

By: /s/ Thomas Lister
Name: Thomas Lister

INTERCREDITOR AGREEMENT

31 OCTOBER 2017

**CITIBANK EUROPE PLC, UK BRANCH
as Term Agent**

The Term Lenders

**CITIBANK, N.A., LONDON BRANCH
as Senior Secured Note Trustee**

**GLOBAL SHIP LEASE, INC.
as the Parent**

THE ORIGINAL DEBTORS

**CITIBANK, N.A., LONDON BRANCH
acting as Security Agent**

and others

ALLEN & OVERY

Allen & Overy LLP

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THIS AGREEMENT is dated 31 October 2017 and made

BETWEEN:

- (1) **CITIBANK EUROPE PLC, UK BRANCH** as Term Agent;
- (2) **THE FINANCIAL INSTITUTIONS** named on the signing pages as Term Lenders;
- (3) **CITIBANK, N.A., LONDON BRANCH** as Term Arranger;
- (4) **CITIBANK, N.A., LONDON BRANCH** as Senior Secured Note Trustee;
- (5) **GLOBAL SHIP LEASE, INC.** (the **Parent**);
- (6) **THE COMPANIES** named on the signing pages as Intra-Group Lenders whose details are set out at Part 1 of Schedule 5;
- (7) **THE SUBSIDIARIES** of the Parent named on the signing pages as Debtors (together with the Parent, the **Original Debtors**) whose details are set out at Part 2 of Schedule 5; and
- (8) **CITIBANK, N.A., LONDON BRANCH** as security agent and trustee for the Secured Parties (the **Security Agent**).

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

Acceleration Event means a Credit Facility Acceleration Event or a Pari Passu Debt Acceleration Event.

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.

Arranger means each Credit Facility Arranger and each Pari Passu Arranger, in each case, which is a Party as a Term Arranger or becomes a Party as an Arranger pursuant to Clause 20.7 (Accession of Credit Facility Creditors under new Credit Facilities) or Clause 20.8 (Accession of Pari Passu Debt Creditors under new Pari Passu Notes or Pari Passu Facilities), as the case may be.

Available Commitment

- (a) in relation to any other Credit Facility Lender, has the meaning given to the term "Available Commitment" in the relevant Credit Facility Agreement; and
- (b) in relation to a Pari Passu Lender, has the meaning given to the term "Available Commitment" in the relevant Pari Passu Facility Agreement.

Borrowing Liabilities means, in relation to a member of the Group, the liabilities and obligations (not being Guarantee Liabilities) it may have as a principal debtor to a Creditor (other than to an Arranger or a Creditor Representative) or a Debtor in respect of Liabilities arising under the Debt Documents (whether incurred solely or jointly and including, without limitation, liabilities and obligations as a borrower under the Credit Facility Documents and liabilities and obligations as a borrower or issuer under the Pari Passu Debt Documents).

Business Day means a day (other than a Saturday or Sunday) on which banks are open for general business in London, Rotterdam, and New York and (in relation to any date for the payment or purchase of a currency other than Dollars) the principal financial centre of the country of that currency.

Cash Proceeds means:

- (a) proceeds of the Security Property which are in the form of cash; and
- (b) any cash which is generated by holding, managing, exploiting, collecting, realising or disposing of any proceeds of the Security Property which are in the form of Non-Cash Consideration.

Charged Property means all of the assets which from time to time are, or are expressed to be, the subject of the Transaction Security.

Collateral Account has the meaning given to that expression in the Senior Secured Note Indenture.

Commitment means a Credit Facility Commitment or a Pari Passu Facility Commitment.

Common Assurance means any guarantee, indemnity or other assurance against loss in respect of any of the Liabilities, the benefit of which (however conferred) is, to the extent legally possible, given to all the Secured Parties in respect of their Liabilities.

Common Currency means the lawful currency for the time being of the United States of America.

Common Currency Amount means, in relation to an amount, that amount converted (to the extent not already denominated in the Common Currency) into the Common Currency at the Spot Rate of Exchange on the Business Day prior to the relevant calculation.

Common Transaction Security means any Transaction Security which to the extent legally possible:

- (a) is created in favour of the Security Agent as trustee for the other Secured Parties in respect of their Liabilities; or
- (b) in the case of any jurisdiction in which effective Security cannot be granted in favour of the Security Agent as trustee for the Secured Parties is created in favour of:
 - (i) all the Secured Parties in respect of their Liabilities; or
 - (ii) the Security Agent under a parallel debt structure for the benefit of all the Secured Parties,

and which (subject to the terms of this Agreement) ranks in the order of priority contemplated in Clause 2.2 (Transaction Security).

Consent means any consent, approval, release or waiver or agreement to any amendment.

Credit Facility means:

- (a) on or prior to the Term Lender Discharge Date, the Initial Term Facility; and

- (b) after the Term Lender Discharge Date, any credit facility made available to a member of the Group where any:
 - (i) agent of the lenders in respect of the credit facility becomes a Party as a Creditor Representative in respect of that credit facility pursuant to Clause 20.7 (Accession of Credit Facility Creditors under new Credit Facilities);
 - (ii) arranger of the credit facility has become a Party as a Credit Facility Arranger in respect of that credit facility pursuant to Clause 20.7 (Accession of Credit Facility Creditors under new Credit Facilities);
 - (iii) lender in respect of the credit facility has become a Party as a Credit Facility Lender in respect of that credit facility pursuant to Clause 20.7 (Accession of Credit Facility Creditors under new Credit Facilities); and
 - (iv) the aggregate of the maximum principal amount outstanding under the credit facilities including capitalised interest, fees, charges or other amounts at any time does not exceed the amount permitted under the Senior Secured Note Indenture.

Credit Facility Acceleration Event means:

- (a) on or prior to the Term Lender Discharge Date, the Term Agent exercising any of its rights under clause 18.14 (Acceleration) of the Initial Term Facility Agreement or any acceleration provisions being automatically invoked under the Initial Term Facility Agreement; and
- (b) after the Term Lender Discharge Date, the Creditor Representative in relation to any Credit Facility exercising any of its rights under any Equivalent Provision(s) of the relevant Credit Facility Agreement or any acceleration provisions being automatically invoked under the relevant Credit Facility Agreement,

other than the right to declare any amount payable on demand.

Credit Facility Agreement means:

- (a) on or prior to the Term Lender Discharge Date, the Initial Term Facility Agreement; and
- (b) after the Term Lender Discharge Date, in relation to a Credit Facility, the facility agreement documenting that Credit Facility.

Credit Facility Arranger means:

- (a) on or prior to the Term Lender Discharge Date, the Term Arranger; and
- (b) after the Term Lender Discharge Date, any arranger of any other Credit Facility which becomes a Party pursuant to Clause 20.7 (Accession of Credit Facility Creditors under new Credit Facilities).

Credit Facility Borrower means a "Borrower" under and as defined in:

- (a) on or prior to the Term Lender Discharge Date, the Initial Term Facility Agreement; and
- (b) after the Term Lender Discharge Date, the relevant Credit Facility Agreement.

Credit Facility Commitment means "Commitment" under and as defined in:

- (a) on or prior to the Term Lender Discharge Date, the Initial Term Facility Agreement; and
- (b) after the Term Lender Discharge Date, the relevant Credit Facility Agreement.

Credit Facility Creditors means each Creditor Representative in relation to a Credit Facility, each Credit Facility Arranger and each Credit Facility Lender.

Credit Facility Documents means:

- (a) on or prior to the Term Lender Discharge Date, the Initial Term Finance Documents; and
- (b) after the Term Lender Discharge Date, if applicable, each document or instrument entered into between a member of the Group and a Credit Facility Creditor setting out the terms of any credit facility which creates or evidences any Credit Facility Liabilities.

Credit Facility Guarantor means:

- (a) on or prior to the Term Lender Discharge Date, a “Guarantor” under, and as defined, in the Initial Term Facility Agreement; and
- (b) after the Term Lender Discharge Date, any member of the Group that provides a guarantee in favour of any Credit Facility Creditor in connection with any Credit Facility.

Credit Facility Lender Discharge Date means the first date on which all Credit Facility Liabilities have been fully and finally discharged to the satisfaction of the relevant Creditor Representative(s), whether or not as the result of an enforcement, and the Credit Facility Lenders are under no further obligation to provide financial accommodation to any of the Debtors under the Debt Documents.

Credit Facility Lenders means:

- (a) on or prior to the Term Lender Discharge Date, the Term Lenders; and
- (b) after the Term Lender Discharge Date, each “Lender” (under, and as defined in the relevant Credit Facility Agreement).

Credit Facility Liabilities means the Liabilities owed by any Debtor to the Credit Facility Creditors under or in connection with the Credit Facility Documents.

Credit Facility Participations means in relation to a Credit Facility Lender its aggregate Credit Facility Commitments.

Creditor/Creditor Representative Accession Undertaking means:

- (a) an undertaking substantially in the form set out in Schedule 2 (Form of Creditor/Creditor Representative Accession Undertaking); or
- (b) a Transfer Certificate (as defined in the relevant Credit Facility Agreement or Pari Passu Facility Agreement) *provided that* it contains an accession to this Agreement which is substantially in the form set out in Schedule 2 (Form of Creditor/Creditor Representative Accession Undertaking); or
- (c) an Increase Confirmation (as defined in the relevant Credit Facility Agreement or Pari Passu Facility Agreement) *provided that* it contains an accession to this Agreement which is substantially in the form set out in Schedule 2 (Form of Creditor/Creditor Representative Accession Undertaking), as the context may require; or

- (d) in the case of an acceding Debtor which is expressed to accede as an Intra Group Lender in the relevant Debtor Accession Deed, that Debtor Accession Deed.

Creditor Representative means:

- (a) in relation to the Term Lenders, the Term Agent;
- (b) in relation to the Credit Facility Lenders under any other Credit Facility, the facility agent in respect of that Credit Facility which has acceded to this Agreement as the Creditor Representative of those Credit Facility Lenders pursuant to Clause 20.7 (Accession of Credit Facility Creditors under new Credit Facilities);
- (c) in relation to the Senior Secured Noteholders, the Senior Secured Note Trustee; and
- (d) in relation to any other Pari Passu Noteholders or Pari Passu Lenders, the person which has acceded to this Agreement as the Creditor Representative of those Pari Passu Noteholders or Pari Passu Lenders pursuant to Clause 20.8 (Accession of Pari Passu Debt Creditors under new Pari Passu Notes or Pari Passu Facilities).

Creditor Representative Amounts means fees, costs and expenses of a Creditor Representative payable to a Creditor Representative for its own account pursuant to the relevant Debt Documents or any engagement letter between a Creditor Representative and a Debtor (including any amount payable to a Creditor Representative by way of indemnity, remuneration or reimbursement for expenses incurred), and the costs incurred by a Creditor Representative in connection with any actual or attempted Enforcement Action which is permitted by this Agreement which are recoverable pursuant to the terms of the Debt Documents together with any VAT payable on any of the foregoing but shall not include (a) any amount of principal or interest payable in respect of any Debt Document or (b) the costs of bringing any claims, suit or proceeding against any Credit Facility Creditor or Senior Secured Note Creditor.

Creditors means the Primary Creditors and the Intra-Group Lenders.

Debt Disposal means any disposal of any Liabilities or Debtors' Intra-Group Receivables pursuant to paragraphs (d) or (e) of Clause 12.1 (Facilitation of Distressed Disposals).

Debt Document means each of this Agreement, the Credit Facility Documents, the Pari Passu Debt Documents, the Security Documents, any agreement evidencing the terms of the Intra-Group Liabilities and any other document designated as such by the Security Agent and the Parent.

Debtor means each Original Debtor and any person which becomes a Party as a Debtor in accordance with the terms of Clause 20 (Changes to the Parties).

Debtor Accession Deed means:

- (a) a deed substantially in the form set out in Schedule 1 (Form of Debtor Accession Deed); or
- (b) (only in the case of a member of the Group which is acceding as a borrower, issuer or guarantor under a Credit Facility Document or Pari Passu Debt Document) an accession document in the form required by the relevant Credit Facility Document or Pari Passu Debt Document (*provided in each case that it contains an accession to this Agreement which is substantially in the form set out in Schedule 1 (Form of Debtor Accession Deed)*).

Debtor Resignation Request means a notice substantially in the form set out in Schedule 3 (Form of Debtor Resignation Request).

Debtors' Intra-Group Receivables means, in relation to a member of the Group, any liabilities and obligations owed to any Debtor (whether actual or contingent and whether incurred solely or jointly) by that member of the Group.

Default means an Event of Default or any event or circumstance which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Debt Documents or any combination of any of the foregoing) be an Event of Default.

Defaulting Lender means:

- (a) after the Term Lender Discharge Date, a Credit Facility Lender which is a "Defaulting Lender" under, and as defined in, the relevant Credit Facility Documents; and
- (b) at any time, a Pari Passu Lender which is a "Defaulting Lender" under, and as defined in, the relevant Pari Passu Facility Agreement

Delegate means any delegate, agent, attorney or co-trustee appointed by the Security Agent.

Distress Event means any of:

- (a) an Acceleration Event; or
- (b) the enforcement of any Transaction Security.

Distressed Disposal means a disposal of any Charged Property which is:

- (a) being effected at the request of the Instructing Group in circumstances where the Transaction Security has become enforceable;
- (b) being effected by enforcement of the Transaction Security; or
- (c) being effected, after the occurrence of a Distress Event, by a Debtor to a person or persons which is, or are, not a member, or members, of the Group.

Dollars or **US\$** means the lawful currency for the time being of the United States of America.

Enforcement means the enforcement or disposal of any Transaction Security, the requesting of a Distressed Disposal and/or the release or disposal of claims and/or Transaction Security on a Distressed Disposal under Clause 12 (Distressed Disposals), the giving of instructions as to actions with respect to the Transaction Security and/or the Charged Property following an Insolvency Event under Clause 7.7 (Security Agent instructions) and the taking of any other actions consequential on (or necessary to effect) any of those actions (but excluding the delivery of an Initial Enforcement Notice).

Enforcement Action means:

- (a) in relation to any Liabilities:
 - (i) the acceleration of any Liabilities or the making of any declaration that any Liabilities are prematurely due and payable (other than as a result of it becoming unlawful for a Primary Creditor to perform its obligations under, or of any voluntary or mandatory prepayment arising under, the Debt Documents);
 - (ii) the making of any declaration that any Liabilities are payable on demand;

- (iii) the making of a demand in relation to a Liability that is payable on demand (other than a demand made by an Intra-Group Lender in relation to any Intra-Group Liabilities which are on-demand Liabilities to the extent (A) that the demand is made in the ordinary course of dealings between the relevant Debtor and Intra-Group Lender and (B) that any resulting Payment would be a Permitted Intra-Group Payment);
- (iv) the making of any demand against any member of the Group in relation to any Guarantee Liabilities of that member of the Group;
- (v) the exercise of any right to require any member of the Group to acquire any Liability (including exercising any put or call option against any member of the Group for the redemption or purchase of any Liability other than in connection with an asset sale offer, an event of loss offer, a change of control offer or an excess cash flow offer (however defined) as set out in the Credit Facility Documents or Pari Passu Debt Documents) and excluding any such right which arises as a result of any open market purchases of, or any voluntary tender offer or exchange offer for, Pari Passu Notes at a time at which no Default is continuing;
- (vi) the exercise of any right of set-off, account combination or payment netting against any member of the Group in respect of any Liabilities other than the exercise of any such right which is otherwise expressly permitted under the Credit Facility Documents and not prohibited under the Pari Passu Debt Documents to the extent that the exercise of that right gives effect to a Permitted Payment; and
- (vii) the suing for, commencing or joining of any legal or arbitration proceedings against any member of the Group to recover any Liabilities;
- (b) the taking of any steps to enforce or require the enforcement of any Transaction Security (including the crystallisation of any floating charge forming part of the Transaction Security);
- (c) the entering into of any composition, compromise, assignment or arrangement with any member of the Group which owes any Liabilities, or has given any Security, guarantee or indemnity or other assurance against loss in respect of the Liabilities (other than any action permitted under Clause 20 (Changes to the Parties), or any such right which arises as a result of any open market purchases of, or voluntary tender offer or exchange offer for, Pari Passu Notes at a time at which no Default is continuing); or
- (d) the petitioning, applying or voting for, or the taking of any steps (including the appointment of any liquidator, receiver, administrator or similar officer) in relation to, the winding up, dissolution, administration or reorganisation of any member of the Group which owes any Liabilities, or has given any Security, guarantee, indemnity or other assurance against loss in respect of any of the Liabilities, or any of such member of the Group's assets or any suspension of payments or moratorium of any indebtedness of any such member of the Group, or any analogous procedure or step in any jurisdiction,

except that the following shall not constitute Enforcement Action:

- (i) the taking of any action falling within paragraphs (a)(ii), (iii), (iv) or (vii) above which is necessary (but only to the extent necessary) to preserve the validity, existence or priority of claims in respect of Liabilities, including the registration of such claims before any court or governmental authority and the bringing, supporting or joining of proceedings to prevent any loss of the right to bring, support or join proceedings by reason of applicable limitation periods; and

- (ii) a Primary Creditor bringing legal proceedings against any person solely for the purpose of:
 - (A) obtaining injunctive relief (or any analogous remedy outside England and Wales) to restrain any actual or putative breach of any Debt Document to which it is party;
 - (B) obtaining specific performance (other than specific performance of an obligation to make a payment) with no claim for damages; or
 - (C) requesting judicial interpretation of any provision of any Debt Document to which it is party with no claim for damages; or
- (iii) bringing legal proceedings against any person in connection with any fraud, securities violation or securities or listing regulations; or
- (iv) allegations of material misstatements or omissions made in connection with the offering materials relating to any Pari Passu Notes or in reports furnished to the Pari Passu Noteholders or any exchange on which the Pari Passu Notes are listed by a member of the Group pursuant to the information and reporting requirements under the Pari Passu Debt Documents; or
- (v) to the extent entitled by law, the taking of action against any creditor (or any agent, trustee or receiver acting on behalf of such creditor) to challenge the basis on which any sale or disposal is to take place pursuant to powers granted to such persons under any security documentation.

Enforcement Instructions means instructions as to Enforcement (including the manner and timing of Enforcement) given by the relevant group of Primary Creditors to the Security Agent pursuant to the terms of this Agreement.

Enforcement Objective has the meaning given to that term in Schedule 4 (Enforcement Principles).

Enforcement Principles means the principles set out in Schedule 4 (Enforcement Principles).

Enforcement Proceeds means any amount paid to or otherwise realised by a Secured Party under or in connection with any Enforcement and, following the occurrence of a Distress Event, any other proceeds of, or arising from, any of the Charged Property.

Equivalent Provision means:

- (a) with respect to a Credit Facility Agreement, in relation to a provision or term of the Initial Term Facility Agreement, any equivalent provision or term in the Credit Facility Agreement which is similar in meaning and effect;
- (b) with respect to a Pari Passu Facility Agreement, in relation to a provision or term of the Initial Term Facility Agreement, any equivalent provision or term in the Pari Passu Facility Agreement which is similar in meaning and effect; and
- (c) with respect to a Pari Passu Note Indenture, in relation to a provision or term of the Senior Secured Note Indenture, any equivalent provision or term in the Pari Passu Note Indenture which is similar in meaning and effect.

Event of Default means any event or circumstance specified as such in a Credit Facility Agreement, a Pari Passu Note Indenture or a Pari Passu Facility Agreement.

Exposure has the meaning given to that term in Clause 16.1 (Equalisation Definitions).

Fairness Opinion has the meaning given to that term in Schedule 4 (Enforcement Principles).

Final Discharge Date means the later to occur of the Credit Facility Lender Discharge Date and the Pari Passu Discharge Date.

Financial Adviser has the meaning given to that term in Schedule 4 (Enforcement Principles).

Group means the Parent and each of its Subsidiaries for the time being.

Guarantee Liabilities means, in relation to a member of the Group, the liabilities and obligations under the Debt Documents (present or future, actual or contingent and whether incurred solely or jointly) it may have to a Creditor (other than to an Arranger or a Creditor Representative) or Debtor as or as a result of its being a guarantor or surety (including, without limitation, liabilities and obligations arising by way of guarantee, indemnity, contribution or subrogation and in particular any guarantee or indemnity arising under or in respect of the Credit Facility Documents and the Pari Passu Debt Documents).

Holding Company means, in relation to a person, any other person in respect of which it is a Subsidiary.

Initial Enforcement Notice has the meaning given to such term in Clause 10.1 (Instructions to enforce).

Initial Term Facility means the "Facility" under and as defined in the Initial Term Facility Agreement.

Initial Term Facility Agreement means the term facility agreement made between the Parent, the Term Lenders and others dated on or about the date of this Agreement.

Initial Term Facility Liabilities means the Liabilities owed by the Debtors to the Credit Facility Creditors under the Initial Term Finance Documents.

Initial Term Finance Documents means the "Finance Documents" under and as defined in the Initial Term Facility Agreement.

Insolvency Event means, in relation to any member of the Group:

- (a) any resolution is passed or order made for the winding up, dissolution, administration or reorganisation of that member of the Group, a moratorium is declared in relation to any indebtedness of that member of the Group or an administrator is appointed to that member of the Group;
- (b) any composition, compromise, assignment or arrangement is made with any of its creditors;
- (c) the appointment of any liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of that member of the Group or any of its assets; or
- (d) any analogous procedure or step is taken in any jurisdiction.

Instructing Group means

- (a) subject to paragraph (b) below, the Majority Credit Facility Lenders and the Majority Pari Passu Creditors; and
- (b) in relation to instructions as to Enforcement, the group of Primary Creditors entitled to give instructions as to Enforcement under Clause 10.1 (Instructions to enforce).

Intercreditor Amendment means any amendment or waiver which is subject to Clause 26 (Consents, Amendments and Override).

Intra-Group Lenders means each member of the Group which has made a loan available to, granted credit to or made any other financial arrangement having similar effect with another member of the Group and which is named on the signing pages as an Intra-Group Lender or which becomes a Party as an Intra-Group Lender in accordance with the terms of Clause 20 (Changes to the Parties).

Intra-Group Liabilities means the Liabilities owed by any member of the Group to any of the Intra-Group Lenders.

Liabilities means all present and future liabilities and obligations at any time of any member of the Group to any Creditor under the Debt Documents, both actual and contingent and whether incurred solely or jointly or as principal or surety or in any other capacity together with any of the following matters relating to or arising in respect of those liabilities and obligations:

- (a) any refinancing, novation, deferral or extension;
- (b) any claim for breach of representation, warranty or undertaking or on an event of default or under any indemnity given under or in connection with any document or agreement evidencing or constituting any other liability or obligation falling within this definition;
- (c) any claim for damages or restitution; and
- (d) any claim as a result of any recovery by any Debtor of a Payment on the grounds of preference or otherwise,

and any amounts which would be included in any of the above but for any discharge, non-provability, unenforceability or non-allowance of those amounts in any insolvency or other proceedings.

Liabilities Acquisition means, in relation to a person and to any Liabilities, a transaction where that person:

- (a) purchases by way of assignment or transfer;
- (b) enters into any sub-participation in respect of; or
- (c) enters into any other agreement or arrangement having an economic effect substantially similar to a sub-participation in respect of, the rights in respect of those Liabilities.

Liabilities Sale means a Debt Disposal pursuant to paragraph (e) of Clause 12.1 (Facilitation of Distressed Disposals).

Majority Credit Facility Lenders means:

- (a) on or prior to the Term Lender Discharge Date, the “Majority Lenders” under, and as defined in, the Initial Term Facility Agreement after the application of paragraph (a) of Clause 28.1 (Disenfranchisement on Debt Purchase Transactions entered into by Sponsor Affiliates) of the Initial Term Facility Agreement; and
- (b) after the Term Lender Discharge Date, at any time, those Credit Facility Lenders whose Credit Facility Participations at that time aggregate more than 66.67% of the total Credit Facility Participations of all Credit Facility Lenders at that time.

Majority Pari Passu Creditors means, at any time, those Pari Passu Lenders and Pari Passu Noteholders whose Pari Passu Credit Participations at that time aggregate more than 50% of the total Pari Passu Credit Participations at that time.

Non-Cash Consideration means consideration in a form other than cash.

Non-Cash Recoveries means:

- (a) any proceeds of a Distressed Disposal or a Debt Disposal; or
- (b) any amount distributed to the Security Agent pursuant to Clause 8.2 (Turnover by the Primary Creditors),

which are, or is, in the form of Non-Cash Consideration.

Non-Distressed Disposal has the meaning given to that term in Clause 11 (Non-Distressed Disposals).

Officers means the principal executive officer, the principal financial officer, the principal operating officer, the principal technical officer, the treasurer, the controller, the general counsel or the principal accounting officer of the Parent.

Other Liabilities means, in relation to a member of the Group, any trading and other liabilities and obligations (not being Borrowing Liabilities or Guarantee Liabilities) it may have to an Intra-Group Lender or Debtor.

Pari Passu Arranger means any arranger of a credit facility which creates or evidences any Pari Passu Debt Liabilities which becomes a Party pursuant to Clause 20.8 (Accession of Pari Passu Debt Creditors under new Pari Passu Notes or Pari Passu Facilities).

Pari Passu Credit Participation means, in relation to a Pari Passu Noteholder or a Pari Passu Lender, the aggregate of:

- (a) its aggregate Pari Passu Facility Commitments, if any;
- (b) the aggregate outstanding principal amount of the Senior Secured Notes held by it, if any (as determined in accordance with the Senior Secured Note Indenture); and
- (c) to the extent not falling within paragraphs (a) or (b) above, the aggregate outstanding principal amount of any Pari Passu Debt Liabilities in respect of which it is the creditor, if any.

Pari Passu Debt Acceleration Event means:

- (a) the Senior Secured Note Trustee (or the requisite Senior Secured Noteholders under the Senior Secured Note Indenture) exercising any of its or their rights under section 6.02 of the Senior Secured Note Indenture or any acceleration provisions being automatically invoked in each case under section 6.02 of the Senior Secured Note Indenture;
- (b) the Creditor Representative of any other Pari Passu Noteholder(s) (or the requisite Pari Passu Noteholders under any other Pari Passu Note Indenture) exercising any of its or their rights or any acceleration provisions being automatically invoked in each case under an Equivalent Provision of the relevant Pari Passu Note Indenture; or
- (c) the Creditor Representative of any other Pari Passu Lender(s) (or any of the other Pari Passu Lenders) exercising any of its or their rights or any acceleration provisions being automatically invoked in each case under an Equivalent Provision of the relevant Pari Passu Facility Agreement,

other than the right to declare any amount payable on demand.

Pari Passu Debt Creditors means:

- (a) each Senior Secured Note Creditor; and
- (b) each other Creditor Representative in relation to any Pari Passu Debt Liabilities, each Pari Passu Arranger, each other Pari Passu Noteholder and each Pari Passu Lender.

Pari Passu Debt Discharge Date means the first date on which all Pari Passu Debt Liabilities have been fully and finally discharged to the satisfaction of the Creditor Representative(s) in relation to any Pari Passu Debt Liabilities, whether or not as the result of an enforcement, and the Pari Passu Debt Creditors are under no further obligation to provide financial accommodation to any of the Debtors under the Pari Passu Debt Documents.

Pari Passu Debt Documents means:

- (a) each Senior Secured Note Document; and
- (b) each other document or instrument entered into between any member of the Group and a Pari Passu Debt Creditor setting out the terms of any credit facility, notes, indenture or debt security which creates or evidences any Pari Passu Debt Liabilities.

Pari Passu Debt Liabilities means the Liabilities owed by the Debtors to the Pari Passu Debt Creditors under or in connection with the Pari Passu Debt Documents.

Pari Passu Discharge Date means the first date on which all Pari Passu Liabilities have been fully and finally discharged to the satisfaction of the relevant Creditor Representative(s) (in the case of the Pari Passu Debt Liabilities), whether or not as the result of an enforcement, and the Pari Passu Debt Creditors are under no further obligation to provide financial accommodation to any of the Debtors under the Debt Documents.

Pari Passu Facility means any credit facility made available to the Pari Passu Note Issuer where any:

- (a) agent of the lenders in respect of the credit facility becomes a Party as a Creditor Representative;
- (b) arranger of the credit facility has become a party as a Pari Passu Arranger; and

(c) lender in respect of the credit facility has become a Party as a Pari Passu Lender, in respect of that credit facility pursuant to Clause 20.8 (Accession of Pari Passu Debt Creditors under new Pari Passu Notes or Pari Passu Facilities).

Pari Passu Facility Agreement means a facility agreement setting out the terms of any credit facility which creates or evidences any Pari Passu Debt Liabilities.

Pari Passu Facility Commitment means any “Commitment” under and as defined in a Pari Passu Facility Agreement.

Pari Passu Lender means each “Lender” under and as defined in the relevant Pari Passu Facility Agreement.

Pari Passu Note Indenture means the Senior Secured Note Indenture and any other note indenture setting out the terms of any debt security which creates or evidences any Pari Passu Debt Liabilities.

Pari Passu Note Issuer means the Parent.

Pari Passu Note Trustee means:

- (a) the Senior Secured Note Trustee; and
- (b) any other note trustee in respect of Pari Passu Notes which has acceded to this Agreement as a Creditor Representative pursuant to Clause 20.8 (Accession of Pari Passu Debt Creditors under new Pari Passu Notes or Pari Passu Facilities).

Pari Passu Noteholder means a Senior Secured Noteholder and any other holder from time to time of any Pari Passu Notes.

Pari Passu Notes means:

- (a) the Senior Secured Notes; and
- (b) any other senior secured notes issued or to be issued by the Pari Passu Note Issuer under a Pari Passu Note Indenture.

Party means a party to this Agreement.

Payment means, in respect of any Liabilities (or any other liabilities or obligations), a payment, prepayment, repayment, redemption, defeasance or discharge of those Liabilities (or other liabilities or obligations).

Permitted Credit Facility Payments means the Payments permitted by Clause 3.1 (Payment of Credit Facility Liabilities).

Permitted Intra-Group Payments means the Payments permitted by Clause 6.2 (Permitted Payments: Intra-Group Liabilities).

Permitted Pari Passu Debt Payments means the Payments permitted by Clause 4.1 (Payment of Pari Passu Debt Liabilities).

Permitted Payment means a Permitted Intra-Group Payment, a Permitted Pari Passu Debt Payment or a Permitted Credit Facility Payment.

Permitted Reorganisation means a solvent liquidation, reorganisation, merger, amalgamation or consolidation involving a Debtor and one or more other entities (or in the case of a solvent reorganization only no other entity) that results in the same person, a different person or in the case of a solvent reorganization only no person owning the relevant assets and where such solvent liquidation, reorganisation, merger, amalgamation or consolidation is expressly permitted under the Credit Facility Documents and the Pari Passu Debt Documents and the Security Agent has received an opinion of counsel and a certificate signed by an Officer of the Parent (without personal liability) each confirming that such solvent liquidation, reorganisation, merger, amalgamation or consolidation, in each case, is expressly permitted under the Credit Facility Documents and the Pari Passu Debt Documents.

Primary Creditors means the Credit Facility Creditors and the Pari Passu Debt Creditors.

Primary Finance Documents means the Credit Facility Documents and the Pari Passu Debt Documents.

Property of a member of the Group or of a Debtor means:

- (a) any asset of that member of the Group or of that Debtor;
- (b) any Subsidiary of that member of the Group or of that Debtor; and
- (c) any asset of any such Subsidiary.

Public Auction means an auction in which more than one bidder participates or is invited to participate and which is conducted in accordance with the advice of an internationally recognised bank or firm of accountants or (in respect of an auction of vessels only) an internationally recognised ship broker.

Receiver means a receiver or receiver and manager or administrative receiver of the whole or any part of the Charged Property.

Recoveries has the meaning given to that term in Clause 15.1 (Order of application).

Relevant Liabilities means:

- (a) in the case of a Creditor:
 - (i) the Liabilities owed to Creditors ranking (in accordance with the terms of this Agreement) *pari passu* with or in priority to that Creditor (as the case may be); and
 - (ii) all present and future liabilities and obligations, actual and contingent, of the Debtors to the Security Agent; and
- (b) in the case of a Debtor, the Liabilities owed to the Creditors together with all present and future liabilities and obligations, actual and contingent, of the Debtors to the Security Agent.

Secured Obligations means all the Liabilities and all other present and future liabilities and obligations at any time due, owing or incurred by any member of the Group and by each Debtor to any Secured Party under the Debt Documents, both actual and contingent and whether incurred solely or jointly and as principal or surety or in any other capacity.

Secured Parties means the Security Agent, any Receiver or Delegate and each of the Primary Creditors from time to time but, in the case of each Primary Creditor, only if it (or, in the case of a Pari Passu Noteholder, its Creditor Representative) is a Party or has acceded to this Agreement in the appropriate capacity pursuant to Clause 20.9 (Creditor/Creditor Representative Accession Undertaking).

Security means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

Security Documents means:

- (a) each of the Transaction Security Documents;
- (b) any other document entered into at any time by any of the Debtors creating any guarantee, indemnity, Security or other assurance against financial loss in favour of any of the Secured Parties as security for any of the Secured Obligations; and
- (c) any Security granted under any covenant for further assurance in any of the documents referred to in paragraphs (a) and (b) above.

Security Property means:

- (a) the Transaction Security expressed to be granted in favour of the Security Agent as trustee for the Secured Parties and all proceeds of that Transaction Security;
- (b) all obligations expressed to be undertaken by a Debtor to pay amounts in respect of the Liabilities to the Security Agent as trustee for the Secured Parties and secured by the Transaction Security together with all representations and warranties expressed to be given by a Debtor in favour of the Security Agent as trustee for the Secured Parties;
- (c) the Security Agent's interest in any trust fund created pursuant to Clause 8 (Turnover of Receipts); and
- (d) any other amounts or property, whether rights, entitlements, choses in action or otherwise, actual or contingent, which the Security Agent is required by the terms of the Debt Documents to hold as trustee on trust for the benefit of the Secured Parties.

Senior Secured Note Creditors means the Senior Secured Noteholders and the Senior Secured Note Trustee.

Senior Secured Note Documents means the Senior Secured Note Indenture, the Senior Secured Notes, the Security Documents, the Senior Secured Note Guarantees (whether contained in the Senior Secured Note Indenture, as a notation of guarantee attached to the Senior Secured Notes or otherwise) and this Agreement.

Senior Secured Note Guarantees means the "Guarantees" as defined in the Senior Secured Note Indenture.

Senior Secured Note Guarantors means the "Guarantors" as defined in the Senior Secured Note Indenture.

Senior Secured Note Indenture means the indenture governing the Senior Secured Notes dated on or about the date of this Agreement and made between, among others, the Senior Secured Note Trustee, the Security Agent, the Pari Passu Note Issuer and the Senior Secured Note Guarantors.

Senior Secured Note Trustee means the note trustee in respect of the Senior Secured Notes.

Senior Secured Noteholders means the holders from time to time of the Senior Secured Notes.

Senior Secured Notes means:

- (a) the % First Priority Secured Notes due 2022 issued or to be issued by the Pari Passu Note Issuer pursuant to the Senior Secured Note Indenture; and
- (b) any other senior secured notes issued by the Pari Passu Note Issuer pursuant to the Senior Secured Note Indenture *provided that* the Parent has confirmed in writing that the incurrence of those notes will not breach the terms of any of its existing Credit Facility Documents or Pari Passu Debt Documents.

Sponsor Affiliate means CMA CGM S.A. and any of its affiliates.

Spot Rate of Exchange means, in respect of the conversion of one currency (the **First Currency**) into another currency (the **Second Currency**) the then-prevailing rate of exchange offered by Citibank, N.A., London Branch or an agent thereof for the purchase of the Second Currency with the First Currency in the London foreign exchange market at or about 11am (London time) on a particular day.

Subsidiary has the meaning given to that expression in the Initial Term Facility as at the date of this Agreement.

Tax means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

Term Agent means the facility agent under and as defined in the Initial Term Facility Agreement.

Term Arranger means any arranger under and as defined in the Initial Term Facility Agreement.

Term Lender Discharge Date means the first date on which all Initial Term Facility Liabilities have been fully and finally discharged to the satisfaction of the Term Agent, whether or not as the result of an enforcement, and the Term Lenders are under no further obligation to provide financial accommodation to any of the Debtors under the Debt Documents.

Term Lenders means each Lender (as defined in the Initial Term Facility Agreement).

Transaction Security means the Security created or evidenced or expressed to be created or evidenced under or pursuant to the Security Documents.

Transaction Security Documents means:

- (a) the "Security Documents" as defined in the Initial Term Facility Agreement; and
- (b) any other document entered into by any Debtor creating or expressed to create any Security over all or any part of its assets in respect of the obligations of any of the Debtors under any of the Debt Documents.

VAT means:

- (a) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and

- (b) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) above, or imposed elsewhere.

Vessel has the meaning given to that term in the Initial Term Facility Agreement.

1.2 Construction

(a) Unless a contrary indication appears, a reference in this Agreement to:

- (i) any **Credit Facility Arranger, Creditor Representative, Arranger, Creditor, Debtor, Intra-Group Lender, Pari Passu Arranger, Pari Passu Note Trustee, Pari Passu Noteholder, Pari Passu Debt Creditor, Parent, Party, Primary Creditor, Security Agent, Term Agent, Credit Facility Borrower, Credit Facility Guarantor, Term Lender or Credit Facility Lender**, shall be construed to be a reference to it in its capacity as such and not in any other capacity;
- (ii) any **Creditor Representative, Arranger, Creditor, Debtor**, any **Party** or the **Security Agent** or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Debt Documents and, in the case of the Security Agent, any person for the time being appointed as Security Agent or Security Agents in accordance with this Agreement;
- (iii) **assets** includes present and future properties, revenues and rights of every description;
- (iv) a **Debt Document** or any other agreement or instrument is (other than a reference to a **Debt Document** or any other agreement or instrument in **original form**) a reference to that Debt Document, or other agreement or instrument, as amended, novated, supplemented, extended or restated as permitted by this Agreement;
- (v) **enforcing** (or any derivation) the Transaction Security includes:
- (A) the appointment of an administrator (or any analogous officer in any jurisdiction) of a Debtor by the Security Agent; and
- (B) the making of a demand under Clause 18.2 (Parallel debt) by the Security Agent;
- (vi) a **group of Creditors** includes all the Creditors and a **group of Primary Creditors** includes all the Primary Creditors;
- (vii) **indebtedness** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- (viii) the **original form** of a **Debt Document** or any other agreement or instrument is a reference to that Debt Document, agreement or instrument as originally entered into;
- (ix) a **person** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
- (x) **proceeds** of a Distressed Disposal or of a Debt Disposal includes proceeds in cash;
- (xi) a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation; and

- (xii) a provision of law is a reference to that provision as amended or re-enacted.
- (b) Section, Clause and Schedule headings are for ease of reference only.
- (c) A Default is **continuing** if it has not been remedied or waived.
- (d) References to a Creditor Representative acting on behalf of the Credit Facility Creditors of which it is the Creditor Representative means such Creditor Representative acting on behalf of the Credit Facility Creditors of which it is the Creditor Representative with the consent of the proportion of such Credit Facility Creditors required under and in accordance with the applicable Credit Facility Documents (*provided that* if the relevant Credit Facility Documents do not specify a voting threshold for a particular matter, the threshold will be the Majority Credit Facility Lenders). A Creditor Representative will be entitled to seek instructions from the Credit Facility Creditors of which it is the Creditor Representative to the extent required by the applicable Credit Facility Documents, as the case may be, as to any action to be taken by it under this Agreement. To the extent that the Creditor Representative acting on behalf of the Credit Facility Creditors is acting in accordance with the terms of the Credit Facility Documents then the Creditor Representative acting on behalf of the Credit Facility Creditors will not be required to obtain any further consent from the Credit Facility Creditors in respect of such decision if such consent is not required pursuant to the Credit Facility Documents.
- (e) References to a Creditor Representative acting on behalf of the Pari Passu Debt Creditors of which it is the Creditor Representative means such Creditor Representative acting on behalf of the Pari Passu Debt Creditors of which it is the Creditor Representative with the consent of the proportion of such Pari Passu Debt Creditors required under and in accordance with the applicable Pari Passu Debt Documents (*provided that* if the relevant Pari Passu Debt Documents do not specify a voting threshold for a particular matter, the threshold will be a simple majority of the outstanding principal amount under those Pari Passu Debt Documents (excluding any Pari Passu Debt Liabilities owned by a member of the Group or a Sponsor Affiliate)). A Creditor Representative will be entitled to seek instructions from the Pari Passu Debt Creditors of which it is the Creditor Representative to the extent required or permitted by the applicable Pari Passu Debt Documents, as the case may be, as to any action to be taken by it under this Agreement. To the extent that the Pari Passu Note Trustee may, in accordance with the Pari Passu Debt Documents, act without the consent of the Pari Passu Noteholders, then the Pari Passu Note Trustee will not be required to obtain any further consent from the Pari Passu Noteholders in respect of any action to be taken by it under this Agreement.
- (f) Any certifications required to be given by a Creditor Representative under this Agreement shall be given by that Creditor Representative without incurring any liability.

1.3 Third party rights

- (a) Unless expressly provided to the contrary in this Agreement, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the **Third Parties Act**) to enforce or to enjoy the benefit of any term of this Agreement.
- (b) Notwithstanding any term of this Agreement, the consent of any person who is not a Party is not required to rescind or vary this Agreement at any time.
- (c) Any Receiver, Delegate or any other person described in paragraph (b) of Clause 18.11 (Exclusion of liability) may, subject to this Clause 1.3 and the Third Parties Act, rely on any Clause of this Agreement which expressly confers rights on it.

(d) The Third Parties Act shall apply to this Agreement in respect of any Pari Passu Noteholder. For the purposes of paragraph (b) above and this paragraph (d), upon any person becoming a Pari Passu Noteholder, such person shall be deemed to be a Party to this Agreement and shall be bound by the provisions of this Agreement and be deemed to receive the benefits of this Agreement, and be subject to the terms and conditions hereof, as if such person were a Party hereto.

2. RANKING AND PRIORITY

2.1 Primary Creditor Liabilities

Each of the Parties agrees that the Credit Facility Liabilities and the Pari Passu Debt Liabilities owed by the Debtors to the Primary Creditors shall rank in right and priority of payment *pari passu* and without any preference between them.

2.2 Transaction Security

Each of the Parties agrees that the Transaction Security shall rank and secure the Credit Facility Liabilities and the Pari Passu Debt Liabilities (but only to the extent that such Transaction Security is expressed to secure those Liabilities) in the following order:

- (a) **first**, the Credit Facility Liabilities; and
- (b) **second**, the Pari Passu Debt Liabilities.

2.3 Intra-Group Liabilities

Each of the Parties agrees that the Intra-Group Liabilities are postponed and subordinated in accordance with the terms of this Agreement to the Liabilities owed by the Debtors to the Primary Creditors.

2.4 Creditor Representative Amounts

Subject to Clause 15 (Application of Proceeds) where applicable, nothing in this Agreement will prevent payment by the Parent or any Debtor of the Creditor Representative Amounts or the receipt and retention of such Creditor Representative Amounts by the relevant Creditor Representative(s).

2.5 Initial Term Facility Refinancing

The Initial Term Facility may be refinanced in full using Permitted Refinancing Indebtedness (as defined in the Senior Secured Note Indenture) provided that if such Permitted Refinancing Indebtedness (as defined in the Senior Secured Note Indenture) is to be incurred through the issuance of notes or other securities, each Primary Creditor authorises the Credit Representatives (without the need for the consent of any other Creditor) to make any required amendments to the definition of "Credit Facility Liabilities" and any related definitions in this Agreement as may be agreed with the Parent to provide for the ranking and priority of such notes or other securities.

3. CREDIT FACILITY CREDITORS AND CREDIT FACILITY LIABILITIES

3.1 Payment of Credit Facility Liabilities

The Debtors may make Payments of the Credit Facility Liabilities at any time in accordance with, and subject to the provisions of, the relevant Credit Facility Documents.

3.2 Security: Credit Facility Creditors

The Credit Facility Creditors may take, accept or receive the benefit of:

- (a) any Security in respect of the Credit Facility Liabilities from any member of the Group in addition to the Common Transaction Security which to the extent legally possible is, at the same time, also offered either:
 - (i) to the Security Agent as trustee for the other Secured Parties in respect of their Liabilities; or
 - (ii) in the case of any jurisdiction in which effective Security cannot be granted in favour of the Security Agent as trustee for the Secured Parties:
 - (A) to the other Secured Parties in respect of their Liabilities; or
 - (B) to the Security Agent under a parallel debt structure for the benefit of the other Secured Parties, and ranks in the same order of priority as that contemplated in Clause 2.2 (Transaction Security); and
- (b) any guarantee, indemnity or other assurance against loss from any member of the Group in respect of the Credit Facility Liabilities in addition to those in:
 - (i) the original form of the Initial Term Facility Agreement or any Equivalent Provision in any other Credit Facility Agreement;
 - (ii) this Agreement; or
 - (iii) any Common Assurance,if and to the extent legally possible, at the same time it is also offered to the other Secured Parties in respect of their Liabilities and ranks in the same order of priority as that contemplated in Clause 2 (Ranking and Priority).

4. PARRI PASSU DEBT CREDITORS AND PARRI PASSU DEBT LIABILITIES

4.1 Payment of Pari Passu Debt Liabilities

The Debtors may make Payments of the Pari Passu Debt Liabilities at any time in accordance with, and subject to the provisions of, the Pari Passu Debt Documents and Clause 16.17 (Note Purchase Condition) of the Initial Term Facility Agreement and any Equivalent Provision of any other Credit Facility Agreement.

4.2 Security: Pari Passu Debt Creditors

The Pari Passu Debt Creditors may take, accept or receive the benefit of:

- (a) any Security in respect of the Pari Passu Debt Liabilities from any member of the Group in addition to the Common Transaction Security which to the extent legally possible is, at the same time, also offered either:
 - (i) to the Security Agent as trustee for the other Secured Parties in respect of their Liabilities; or

- (ii) in the case of any jurisdiction in which effective Security cannot be granted in favour of the Security Agent as trustee for the Secured Parties:
 - (A) to the other Secured Parties in respect of their Liabilities; or
 - (B) to the Security Agent under a parallel debt structure for the benefit of the other Secured Parties,and (subject to the terms of this Agreement) ranks in the same order of priority as that contemplated in Clause 2.2 (Transaction Security); and
- (b) any guarantee, indemnity or other assurance against loss from any member of the Group in respect of the Pari Passu Debt Liabilities in addition to those in:
 - (i) the original form of the Senior Secured Note Indenture and Senior Secured Note Guarantees or any Equivalent Provision in a Pari Passu Note Indenture or Pari Passu Facility Agreement; or
 - (ii) this Agreement; or
 - (iii) any Common Assurance,if and to the extent legally possible at the same time it also offered to the other Secured Parties in respect of their respective Liabilities and (subject to the terms of this Agreement) ranks in the same order of priority as that contemplated in Clause 2 (Ranking and Priority).

4.3 Incurrence of Pari Passu Debt Liabilities

Notwithstanding any provision in this Agreement, no Debtor may incur any Pari Passu Debt Liabilities (other than pursuant to the Senior Secured Note Documents) until the Term Lender Discharge Date has occurred.

5. OPTION TO PURCHASE

5.1 Option to purchase: Pari Passu Debt Creditors

- (a) Subject to paragraph (b) below some or all of the Pari Passu Noteholders and Pari Passu Lenders (the **Purchasing Secured Creditors**) may after a Distress Event, after having given all Pari Passu Noteholders and Pari Passu Lenders the opportunity to participate in such purchase, by giving not less than ten days' notice to the Security Agent, require the transfer to them (or to one or more nominees or designees), in accordance with Clause 20.2 (Change of Credit Facility Lender or Pari Passu Lender under an existing Credit Facility or Pari Passu Facility), of all, but not part, of the rights, benefits and obligations in respect of the Credit Facility Liabilities if:
 - (i) that transfer is lawful and, subject to paragraph (ii) below, otherwise permitted by the terms of the relevant Credit Facility Agreement;
 - (ii) any conditions relating to such a transfer contained in the relevant Credit Facility Agreement are complied with, other than:
 - (A) any requirement to obtain the consent of, or consult with, any Debtor or other member of the Group relating to such transfer, which consent or consultation shall not be required; and

(B) any condition more onerous than those contained in Clause 27.1 (Assignments and transfers by Lenders) of the original form of the Initial Term Facility Agreement;

(iii) the relevant Creditor Representative, on behalf of the Credit Facility Lenders, is paid an amount by the Purchasing Secured Creditors equal to the aggregate of:

(A) all of the Credit Facility Liabilities at that time (whether or not due), including all amounts that would have been payable under the Credit Facility Documents if the Credit Facility Liabilities were being prepaid by the relevant Debtors on the date of that payment; and

(B) all costs and expenses (including legal fees) incurred by the relevant Creditor Representative for the Credit Facility Lenders and/or the Credit Facility Lenders as a consequence of giving effect to that transfer;

(iv) as a result of that transfer the Credit Facility Lenders have no further actual or contingent liability to any Debtor under the relevant Debt Documents;

(v) an indemnity is provided from the Purchasing Secured Creditors (or from another third party acceptable to all the Credit Facility Lenders) in a form satisfactory to each Credit Facility Lender in respect of all losses which may be sustained or incurred by any Credit Facility Lender in consequence of any sum received or recovered by any Credit Facility Lender from any person being required (or it being alleged that it is required) to be paid back by or clawed back from any Credit Facility Lender for any reason; and

(vi) the transfer is made without recourse to, or representation or warranty from, the Credit Facility Lenders, except that each Credit Facility Lender shall be deemed to have represented and warranted on the date of that transfer that it has the corporate power to effect that transfer and it has taken all necessary action to authorise the making by it of that transfer.

(b) The Creditor Representatives in respect of the Credit Facilities shall, at the request of the Purchasing Secured Creditors notify the Pari Passu Noteholders and Pari Passu Lenders of the sum of the amounts described in paragraphs (a)(iii) above.

(c) If more than one Purchasing Secured Creditor wishes to exercise the option to purchase the Credit Facility Liabilities in accordance with paragraph (a) above, each such Purchasing Secured Creditor shall:

(i) acquire the Credit Facility Liabilities *pro rata*, in the proportion that its Pari Passu Credit Participation bears to the aggregate Pari Passu Credit Participations of all the Purchasing Secured Creditors; and

(ii) inform the Senior Secured Note Trustee in accordance with the terms of the Senior Secured Note Indenture or the relevant Creditor Representative(s) in accordance with the terms of the relevant Pari Passu Debt Documents, who will determine (consulting with each other as required) the appropriate share of the Credit Facility Liabilities to be acquired by each such Purchasing Secured Creditor and who shall inform each such Purchasing Secured Creditor accordingly,

and the Senior Secured Note Trustee or the relevant Creditor Representative(s) (as applicable) shall promptly inform the Creditor Representatives of the Credit Facility Lenders of the Purchasing Secured Creditors intention to exercise the option to purchase the Credit Facility Liabilities.

6. INTRA-GROUP LENDERS AND INTRA-GROUP LIABILITIES

6.1 Restriction on Payment: Intra-Group Liabilities

Prior to the Final Discharge Date, the Debtors shall not, and shall procure that no other member of the Group will, make any Payments of the Intra-Group Liabilities at any time unless:

- (a) that Payment is permitted under Clause 6.2 (Permitted Payments: Intra-Group Liabilities); or
- (b) the taking or receipt of that Payment is permitted under paragraph (c) of Clause 6.7 (Permitted Enforcement: Intra-Group Lenders).

6.2 Permitted Payments: Intra-Group Liabilities

- (a) Subject to paragraph (b) below, the Debtors may make Payments in respect of the Intra-Group Liabilities (whether of principal, interest or otherwise) from time to time when due to the extent that such Payments are not prohibited under the Credit Facility Documents and/or Pari Passu Debt Documents.
- (b) Payments in respect of the Intra-Group Liabilities may not be made pursuant to paragraph (a) above if, at the time of the Payment, an Acceleration Event has occurred unless:
 - (i) the Majority Credit Facility Lenders and the Majority Pari Passu Creditors consent to that Payment being made; or
 - (ii) that Payment is made to facilitate the making of a Permitted Credit Facility Payment or a Permitted Pari Passu Debt Payment.

6.3 Payment obligations continue

No Debtor shall be released from the liability to make any Payment (including of default interest, which shall continue to accrue) under any Debt Document by the operation of Clauses 6.1 (Restriction on Payment: Intra-Group Liabilities) and 6.2 (Permitted Payments: Intra-Group Liabilities) even if its obligation to make that Payment is restricted at any time by the terms of any of those Clauses.

6.4 Acquisition of Intra-Group Liabilities

- (a) Subject to paragraph (b) below, each Debtor may, and may permit any other member of the Group to:
 - (i) enter into any Liabilities Acquisition; or
 - (ii) beneficially own all or any part of the share capital of a company that is party to a Liabilities Acquisition,in respect of any Intra-Group Liabilities at any time.
- (b) Subject to paragraph (c) below, no action described in paragraph (a) above may take place in respect of any Intra-Group Liabilities if:
 - (i) that action would result in a breach of a Credit Facility Agreement, a Pari Passu Note Indenture or a Pari Passu Facility Agreement; or
 - (ii) at the time of that action, an Acceleration Event has occurred.

- (c) The restrictions in paragraph (b) above shall not apply if:
- (i) the Majority Credit Facility Lenders and the Majority Pari Passu Creditors consent to that action; or
 - (ii) that action is taken to facilitate the making of a Permitted Credit Facility Payment or a Permitted Pari Passu Debt Payment.

6.5 Security: Intra-Group Lenders

Prior to the Final Discharge Date, the Intra-Group Lenders may not take, accept or receive the benefit of any Security, guarantee, indemnity or other assurance against loss in respect of the Intra-Group Liabilities unless:

- (a) that Security, guarantee, indemnity or other assurance against loss is expressly permitted by the Credit Facility Agreement(s) and not prohibited by the Pari Passu Facility Agreement(s) and the Pari Passu Note Indenture(s); or
- (b) the prior consent of the Majority Credit Facility Lenders and the Majority Pari Passu Creditors is obtained.

6.6 Restriction on enforcement: Intra-Group Lenders

Subject to Clause 6.7 (Permitted Enforcement: Intra-Group Lenders), none of the Intra-Group Lenders shall be entitled to take any Enforcement Action in respect of any of the Intra-Group Liabilities at any time prior to the Final Discharge Date.

6.7 Permitted Enforcement: Intra-Group Lenders

After the occurrence of an Insolvency Event in relation to any member of the Group, each Intra-Group Lender may (unless otherwise directed by the Security Agent pursuant to instructions from the Instructing Group or unless the Security Agent has taken, or has given notice that it intends to take, action on behalf of that Intra-Group Lender in accordance with Clause 7.5 (Filing of claims)) exercise any right it may otherwise have against that member of the Group to:

- (a) accelerate any of that member of the Group's Intra-Group Liabilities or declare them prematurely due and payable or payable on demand;
- (b) make a demand under any guarantee, indemnity or other assurance against loss given by that member of the Group in respect of any Intra-Group Liabilities;
- (c) exercise any right of set-off or take or receive any Payment in respect of any Intra-Group Liabilities of that member of the Group; or
- (d) claim and prove in any insolvency process of that member of the Group for the Intra-Group Liabilities owing to it.

6.8 Representations: Intra-Group Lenders

Each Intra-Group Lender which is not a Debtor represents and warrants to the Primary Creditors and the Security Agent that:

- (a) it is a corporation or other limited liability entity, duly incorporated or formed and validly existing under the laws of its jurisdiction of incorporation or formation;

- (b) the obligations expressed to be assumed by it in this Agreement are, subject to any general principles of law limiting its obligations which are applicable to creditors generally, legal, valid, binding and enforceable obligations; and
- (c) the entry into and performance by it of this Agreement does not and will not:
 - (i) conflict with any law or regulation applicable to it, its constitutional documents or any agreement or instrument binding upon it or any of its assets; or
 - (ii) constitute a default or termination event (however described) under any agreement or instrument binding on it or any of its assets.

7. EFFECT OF INSOLVENCY EVENT

7.1 Turnover

This Clause 7 is subject to Clause 19.5 (Turnover obligations: Pari Passu Note Trustee).

7.2 Distributions

- (a) After the occurrence of an Insolvency Event in relation to any member of the Group, any Party entitled to receive a distribution out of the assets of that member of the Group (in the case of a Primary Creditor, only to the extent that such amount constitutes Enforcement Proceeds) in respect of Liabilities owed to that Party shall, to the extent it is able to do so, direct the person responsible for the distribution of the assets of that member of the Group to make that distribution to the Security Agent (or to such other person as the Security Agent shall direct) until the Liabilities owing to the Secured Parties have been paid in full.
- (b) The Security Agent shall apply distributions made to it under paragraph (a) above in accordance with Clause 15 (Application of Proceeds).

7.3 Set-Off

To the extent that any member of the Group's Liabilities are discharged by way of set-off (mandatory or otherwise) after the occurrence of an Insolvency Event in relation to that member of the Group, any Creditor which benefited from that set-off shall (in the case of a Primary Creditor, only to the extent that such amount constitutes Enforcement Proceeds) pay an amount equal to the amount of the Liabilities owed to it which are discharged by that set-off to the Security Agent for application in accordance with Clause 15 (Application of Proceeds).

7.4 Non-cash distributions

If the Security Agent or any other Secured Party receives a distribution in the form of Non-Cash Consideration in respect of any of the Liabilities (other than any distribution of Non-Cash Recoveries), the Liabilities will not be reduced by that distribution until and except to the extent that the realisation proceeds are actually applied towards the Liabilities.

7.5 Filing of claims

After the occurrence of an Insolvency Event in relation to any member of the Group, each Creditor irrevocably authorises the Security Agent (without obligation), on its behalf, to:

- (a) take any Enforcement Action (in accordance with the terms of this Agreement) against that member of the Group;

- (b) demand, sue, prove and give receipt for any or all of that member of the Group's Liabilities;
- (c) collect and receive all distributions on, or on account of, any or all of that member of the Group's Liabilities; and
- (d) file claims, take proceedings and do all other things the Security Agent considers reasonably necessary to recover that member of the Group's Liabilities.

7.6 Further assurance – Insolvency Event

Each Creditor will:

- (a) do all things that the Security Agent requests in order to give effect to this Clause 7; and
- (b) if the Security Agent is not entitled to take any of the actions contemplated by this Clause 7 or if the Security Agent requests that a Creditor take that action, undertake that action itself in accordance with the instructions of the Security Agent or grant a power of attorney to the Security Agent (on such terms as the Security Agent may reasonably require) to enable the Security Agent to take such action.

7.7 Security Agent instructions

For the purposes of Clause 7.2 (Distributions), Clause 7.5 (Filing of claims) and Clause 7.6 (Further assurance – Insolvency Event) the Security Agent shall act on the instructions of the Instructing Group.

8. TURNOVER OF RECEIPTS

8.1 Turnover

This Clause 8 is subject to Clause 19.5 (Turnover obligations: Pari Passu Note Trustee).

8.2 Turnover by the Primary Creditors

Subject to Clause 8.4 (Exclusions) and to Clause 8.5 (Permitted assurance and receipts), if at any time prior to the Final Discharge Date, any Primary Creditor receives or recovers any Enforcement Proceeds except in accordance with Clause 15 (Application of Proceeds), that Primary Creditor will:

- (a) in relation to receipts and recoveries not received or recovered by way of set-off:
 - (i) hold an amount of that receipt or recovery equal to the Relevant Liabilities (or if less, the amount received or recovered) on trust for the Security Agent and promptly pay or distribute that amount to the Security Agent for application in accordance with the terms of this Agreement; and
 - (ii) promptly pay or distribute an amount equal to the amount (if any) by which the receipt or recovery exceeds the Relevant Liabilities to the Security Agent for application in accordance with the terms of this Agreement; and
- (b) in relation to receipts and recoveries received or recovered by way of set-off, promptly pay an amount equal to that recovery to the Security Agent for application in accordance with the terms of this Agreement.

8.3 Turnover by the other Creditors

Subject to Clause 8.4 (Exclusions) and to Clause 8.5 (Permitted assurance and receipts), if at any time prior to the Final Discharge Date, any Creditor other than a Primary Creditor receives or recovers:

- (a) any Payment or distribution of, or on account of or in relation to, any of the Liabilities which is neither:
 - (i) a Permitted Payment; nor
 - (ii) made in accordance with Clause 15 (Application of Proceeds);
- (b) other than where Clause 7.3 (Set-Off) applies, any amount by way of set-off in respect of any of the Liabilities owed to it which does not give effect to a Permitted Payment;
- (c) notwithstanding paragraphs (a) and (b) above, and other than where Clause 7.3 (Set-Off) applies, any amount:
 - (i) on account of, or in relation to, any of the Liabilities:
 - (A) after the occurrence of a Distress Event; or
 - (B) as a result of any other litigation or proceedings against a member of the Group (other than after the occurrence of an Insolvency Event in respect of that member of the Group); or
 - (ii) by way of set-off in respect of any of the Liabilities owed to it after the occurrence of a Distress Event, other than, in each case, any amount received or recovered in accordance with Clause 15 (Application of Proceeds);
- (d) the proceeds of any enforcement of any Transaction Security except in accordance with Clause 15 (Application of Proceeds); or
- (e) other than where Clause 7.3 (Set-Off) applies, any distribution or Payment of, or on account of or in relation to, any of the Liabilities owed by any member of the Group which is not in accordance with Clause 15 (Application of Proceeds) and which is made as a result of, or after, the occurrence of an Insolvency Event in respect of that member of the Group,

that Creditor will:

- (i) in relation to receipts and recoveries not received or recovered by way of set-off:
 - (A) hold an amount of that receipt or recovery equal to the Relevant Liabilities (or if less, the amount received or recovered) on trust for the Security Agent and promptly pay or distribute that amount to the Security Agent for application in accordance with the terms of this Agreement; and
 - (B) promptly pay or distribute an amount equal to the amount (if any) by which the receipt or recovery exceeds the Relevant Liabilities to the Security Agent for application in accordance with the terms of this Agreement; and

- (ii) in relation to receipts and recoveries received or recovered by way of set-off, promptly pay an amount equal to that recovery to the Security Agent for application in accordance with the terms of this Agreement.

8.4 Exclusions

Clause 8.2 (Turnover by the Primary Creditors) and Clause 8.3 (Turnover by the other Creditors) shall not apply to any receipt or recovery made in accordance with Clause 16 (Equalisation).

8.5 Permitted assurance and receipts

Nothing in this Agreement shall restrict the ability of any Primary Creditor to:

- (a) arrange with any person which is not a member of the Group any assurance against loss in respect of, or reduction of its credit exposure to, a Debtor (including assurance by way of credit-based derivative or sub-participation); or
- (b) make any assignment or transfer permitted by Clause 20 (Changes to the Parties),

which:

- (i) is:
 - (A) expressly permitted by the Credit Facility Agreement(s); and
 - (B) not prohibited by the Pari Passu Facility Agreement(s) and the Pari Passu Note Indenture(s).

and that Primary Creditor shall not be obliged to account to any other Party for any sum received by it as a result of that action.

8.6 Amounts received by Debtors

If any of the Debtors receives or recovers any amount which, under the terms of any of the Debt Documents, should have been paid to the Security Agent, that Debtor will:

- (a) hold an amount of that receipt or recovery equal to the Relevant Liabilities (or if less, the amount received or recovered) on trust for the Security Agent and promptly pay that amount to the Security Agent for application in accordance with the terms of this Agreement; and
- (b) promptly pay an amount equal to the amount (if any) by which the receipt or recovery exceeds the Relevant Liabilities to the Security Agent for application in accordance with the terms of this Agreement.

8.7 Saving provision

If, for any reason, any of the trusts expressed to be created in this Clause 8 should fail or be unenforceable, the affected Creditor or Debtor will promptly pay or distribute an amount equal to that receipt or recovery to the Security Agent to be held on trust by the Security Agent for application in accordance with the terms of this Agreement.

8.8 Turnover of Non-Cash Consideration

For the purposes of this Clause 8, if any Creditor receives or recovers any amount or distribution in the form of Non-Cash Consideration which is subject to Clause 8.2 (Turnover by the Primary Creditors) the cash value of that Non-Cash Consideration shall be determined in accordance with Clause 14.2 (Cash value of Non-Cash Recoveries).

9. REDISTRIBUTION

9.1 Recovering Creditor's rights

- (a) Any amount paid or distributed by a Creditor (a **Recovering Creditor**) to the Security Agent under Clause 7 (Effect of Insolvency Event) or Clause 8 (Turnover of Receipts) shall be treated as having been paid or distributed by the relevant Debtor and distributed to the Security Agent and Primary Creditors (each a **Sharing Creditor**) in accordance with the terms of this Agreement.
- (b) On a distribution by the Security Agent under paragraph (a) above of a Payment or distribution received by a Recovering Creditor from a Debtor, as between the relevant Debtor and the Recovering Creditor an amount equal to the amount received or recovered by the Recovering Creditor and paid or distributed to the Security Agent (the **Shared Amount**) will be treated as not having been paid or distributed by that Debtor.

9.2 Reversal of redistribution

- (a) If any part of the Shared Amount received or recovered by a Recovering Creditor becomes repayable or returnable to a Debtor and is repaid or returned by that Recovering Creditor to that Debtor, then:
 - (i) each Sharing Creditor shall (subject to Clause 19 (Pari Passu Note Trustee Protections)), upon request of the Security Agent, pay or distribute to the Security Agent for the account of that Recovering Creditor an amount equal to the appropriate part of its share of the Shared Amount (together with an amount as is necessary to reimburse that Recovering Creditor for its proportion of any interest on the Shared Amount which that Recovering Creditor is required to pay) (the **Redistributed Amount**); and
 - (ii) as between the relevant Debtor and each relevant Sharing Creditor, an amount equal to the relevant Redistributed Amount will be treated as not having been paid or distributed by that Debtor.
- (b) The Security Agent shall not be obliged to pay or distribute any Redistributed Amount to a Recovering Creditor under paragraph (a)(i) above until it has been able to establish to its satisfaction that it has actually received that Redistributed Amount from the relevant Sharing Creditor.

9.3 Deferral of subrogation

- (a) No Creditor or Debtor will exercise any rights which it may have by reason of the performance by it of its obligations under the Debt Documents to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights under the Debt Documents of any Creditor which ranks ahead of it in accordance with the priorities set out in Clause 2 (Ranking and Priority) or the order of application in Clause 15 (Application of Proceeds) until such time as all of the Liabilities owing to each prior ranking Creditor (or, in the case of any Debtor, owing to each Creditor) have been irrevocably discharged in full.
- (b) No Creditor will exercise any rights which it may have to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights under the Debt Documents of any Creditor until such time as all of the Liabilities owing to each Creditor have been irrevocably discharged in full.

10. ENFORCEMENT OF TRANSACTION SECURITY

10.1 Instructions to enforce

- (a) If either the Majority Credit Facility Lenders or the Majority Pari Passu Creditors wish to issue Enforcement Instructions, the Creditor Representatives representing the Primary Creditors comprising the Majority Credit Facility Lenders or Majority Pari Passu Creditors (as the case may be) shall deliver a copy of those proposed Enforcement Instructions (an **Initial Enforcement Notice**) to the Security Agent. A copy of the proposed Enforcement Instructions must be delivered by that Creditor Representative to each other Creditor Representative at least 5 (five) Business Days prior to being sent to the Security Agent.
- (b) The delivery of an Initial Enforcement Notice to the Security Agent shall commence a ten day consultation period (or such shorter period as the relevant Creditor Representatives may agree and as notified by the relevant Creditor Representative to the Security Agent) (the **Initial Consultation Period**) during which time the relevant Creditor Representatives shall consult with each other in good faith with a view to coordinating the proposed Enforcement Instructions (whilst keeping the Security Agent informed of such consultation and co-ordination efforts and the role that the Security Agent would be required to play in such Enforcement).
- (c) There shall be no requirement to adhere to the Initial Consultation Period if paragraphs (f) or (g) below, apply.
- (d) If, following the Initial Consultation Period, and subject to paragraphs (e), (f) and (g) below, the Security Agent has not received consistent Enforcement Instructions from both the Creditor Representatives for the Majority Credit Facility Lenders and the Majority Pari Passu Creditors the Security Agent will act in accordance with Enforcement Instructions received from the Majority Pari Passu Creditors.
- (e) If:
- (i) the Majority Pari Passu Creditors has not either:
 - (A) made a determination as to the method of Enforcement they wish to instruct the Security Agent to pursue (and notified the Security Agent of that determination in writing) (and for the avoidance of doubt instructions not to enforce shall not constitute a determination as to the method of Enforcement); or
 - (B) appointed a Financial Adviser to assist them in making such a determination, within 3 (three) months of the date of the end of the Initial Consultation Period; or
 - (ii) the Credit Facility Lender Discharge Date has not occurred within 6 (six) months of the date of the end of the Initial Consultation Period, then the Security Agent will act in accordance with Enforcement Instructions received from the Majority Credit Facility Lenders until the Credit Facility Lender Discharge Date has occurred.
- (f) If an Insolvency Event is continuing with respect to a Debtor then the Security Agent will, to the extent the Majority Credit Facility Lenders elect to provide such Enforcement Instructions, act in accordance with Enforcement Instructions received from the Majority Credit Facility Lenders until the Credit Facility Lender Discharge Date has occurred.
- (g) If the Majority Pari Passu Creditors have not either:

- (i) made a determination as to the method of Enforcement they wish to instruct the Security Agent to pursue (and notified the Security Agent of that determination in writing) (and for the avoidance of doubt instructions not to enforce shall not constitute a determination as to the method of Enforcement); or
 - (ii) appointed a Financial Adviser to assist them in making such a determination,
- and the Majority Credit Facility Lenders:
- (A) determine in good faith (and notify the other Creditor Representatives and the Security Agent) that a delay in issuing Enforcement Instructions could reasonably be expected to have a material adverse effect on the ability to effect a Distressed Disposal or on the expected realisation proceeds of any Enforcement; and
 - (B) deliver Enforcement Instructions which they reasonably believe to be consistent with the Enforcement Principles and necessary or advisable to enhance the prospects of achieving the Enforcement Objective before the Security Agent has received any Enforcement Instructions from the Majority Pari Passu Creditors,

then the Security Agent will act in accordance with the Enforcement Instructions received from the Majority Credit Facility Lenders until the Credit Facility Lender Discharge Date has occurred.

10.2 Enforcement Instructions

- (a) The Security Agent may refrain from enforcing the Transaction Security or taking any other action as to Enforcement unless instructed otherwise by the Instructing Group.
- (b) Subject to Clause 10.1 (Instructions to enforce) and to the Transaction Security having become enforceable in accordance with its terms, the Instructing Group may give or refrain from giving instructions to the Security Agent to take action as to Enforcement in accordance with the Enforcement Principles as they see fit by way of the issuance of Enforcement Instructions.
- (c) The Instructing Group shall provide Enforcement Instructions that are consistent with the Enforcement Principles.
- (d) The Security Agent is entitled to rely on and comply with instructions given in accordance with this Clause 10.2.

10.3 Manner of enforcement

If the Transaction Security is being enforced or other action as to Enforcement is being taken pursuant to Clause 10.2 (Enforcement Instructions), the Security Agent shall enforce the Transaction Security or take other action as to Enforcement in such manner (including, without limitation, the selection of any administrator (or any analogous officer in any jurisdiction) of any Debtor to be appointed by the Security Agent) as the Instructing Group shall instruct.

10.4 Exercise of voting rights

- (a) Subject to paragraph (c) below, each Creditor (other than each Creditor Representative and each Arranger) will cast its vote in any proposal put to the vote by or under the supervision of any judicial or supervisory authority in respect of any insolvency, pre-insolvency or rehabilitation or similar proceedings relating to any member of the Group as instructed by the Security Agent.

- (b) Subject to paragraph (c) below, the Security Agent shall give instructions for the purposes of paragraph (a) above in accordance with any instructions given to it by the Instructing Group provided that any such instructions have been given in accordance with Clause 10.2 (Enforcement Instructions).
- (c) Nothing in this Clause 10.4 entitles any party to exercise or require any other Primary Creditor to exercise such power of voting or representation to waive, reduce, discharge, extend the due date for (or change the basis for accrual of any) payment of or reschedule any of the Liabilities owed to that Primary Creditor.

10.5 Waiver of rights

To the extent permitted under applicable law and subject to Clause 10.2 (Enforcement Instructions), Clause 10.3 (Manner of enforcement), Clause 12.2 (Proceeds of Distressed Disposals and Debt Disposals), Clause 12.3 (Fair value) and Clause 15 (Application of Proceeds), each of the Secured Parties and the Debtors waives all rights it may otherwise have to require that the Transaction Security be enforced in any particular order or manner or at any particular time or that any amount received or recovered from any person, or by virtue of the enforcement of any of the Transaction Security or of any other security interest, which is capable of being applied in or towards discharge of any of the Secured Obligations is so applied.

10.6 Duties owed

Each of the Secured Parties and the Debtors acknowledges that, in the event that the Security Agent enforces or is instructed to enforce the Transaction Security, the duties of the Security Agent and of any Receiver or Delegate owed to them in respect of the method, type and timing of that enforcement or of the exploitation, management or realisation of any of that Transaction Security shall, subject to Clause 12.2 (Proceeds of Distressed Disposals and Debt Disposals) and Clause 12.3 (Fair value), be no different to or greater than the duty that is owed by the Security Agent, Receiver or Delegate to the Debtors under general law.

10.7 Enforcement through Security Agent only

The Secured Parties shall not have any independent power to enforce, or have recourse to, any of the Transaction Security or to exercise any right, power, authority or discretion arising under the Transaction Security Documents except through the Security Agent. Instructions as to Enforcement may only be given by the Instructing Group in accordance with the terms of this Agreement.

10.8 Alternative Enforcement Actions

After the Security Agent has commenced Enforcement, it shall not accept any subsequent instructions as to Enforcement (save in the case where paragraph (e) of Clause 10.1 (Instructions to enforce) applies) from anyone other than the Instructing Group that instructed it to commence such enforcement of the Transaction Security, regarding any other enforcement of the Transaction Security over or relating to shares or assets directly or indirectly the subject of the enforcement of the Transaction Security which has been commenced (and, for the avoidance of doubt, concerning any enforcement of the Transaction Security only paragraph (b) of the definition of Instructing Group shall be applicable in relation to any instructions as to Enforcement given to the Security Agent by the Instructing Group under this Agreement).

11. NON-DISTRESSED DISPOSALS

11.1 Definitions

In this Clause 11:

- (a) **Disposal Proceeds** means the proceeds of a Non-Distressed Disposal; and
- (b) **Non-Distressed Disposal** means a disposal of:
 - (i) an asset of a member of the Group; or
 - (ii) an asset which is subject to the Transaction Security,
to a person or persons outside the Group or by one member of the Group to another member of the Group (an **Intra-Group Disposal**)
where:
 - (A) the Creditor Representative in respect of each Credit Facility certifies to the Security Agent that that disposal is expressly permitted under its Credit Facility Documents;
 - (B) an Officer of the Parent certifies for the benefit of the Security Agent (and supplies a copy to the Creditor Representative in respect of each Pari Passu Facility Agreement and Pari Passu Note Indenture) that the disposal and, if the disposal is of Charged Property, the release of Transaction Security is not prohibited under the Pari Passu Debt Documents and this Agreement or the Creditor Representative in respect of the each Pari Passu Facility Agreement and Pari Passu Note Indenture authorises the release; and
 - (C) an Officer of Parent certifies for the benefit of the Security Agent that the disposal is not a Distressed Disposal.

11.2 Facilitation of Non-Distressed Disposals

- (a) If a disposal of an asset is a Non-Distressed Disposal, the Security Agent is irrevocably authorised (at the cost of the Parent and without any consent, sanction, authority or further confirmation from any Creditor, other Secured Party or Debtor) but subject to paragraphs (b) and (c) below:
 - (i) to release the Transaction Security or any other claim (relating to a Debt Document) over that asset;
 - (ii) where that asset consists of shares in the capital of a member of the Group, to release the Transaction Security or any other claim (relating to a Debt Document) over that member of the Group's Property;
 - (iii) in addition to paragraph (i) above, if the asset being disposed of is a Vessel, to release any Transaction Security granted by the Debtor owning that Vessel (or in relation to that Vessel), together with the release of any Transaction Security created over the issued share capital of that Debtor in accordance with the terms of the Initial Term Facility Agreement and Senior Secured Note Indenture, provided that the Transaction Security over any Collateral Account in the name of the Debtor owning such Vessel shall not be released until such time as the proceeds of the sale of the Vessel have been applied in prepayment of the Initial Term Facility or in redemption of the Senior Secured Notes pursuant to the terms of the Initial Term Facility Agreement and Senior Secured Note Indenture; and

- (iv) to execute and deliver or enter into any release of the Transaction Security or any claim described in paragraphs (i) to (iii) above and issue any certificates of non crystallisation of any floating charge or any consent to dealing that may, in the discretion of the Security Agent, be considered necessary or desirable.
- (b) In the case of a Non-Distressed Disposal which is an Intra-Group Disposal Clause 11.2(a) shall be subject to:
 - (i) such Intra-Group Disposal is made subject to the existing Transaction Security or, to the extent that replacement Transaction Security is required from the transferee under the terms of the Debt Documents, such Transaction Security will (subject to any requirements relating to the release, retaking, amendment or extension of the Transaction Security under the Debt Documents) be granted at the same time as (or before) the relevant disposal is effected; and
 - (ii) to the extent that replacement Transaction Security is required from the transferee under the terms of the Debt Documents contemporaneously with such release (followed by an immediate retaking of Security of at least equivalent ranking over the same assets), the Parent delivers to the Security Agent either:
 - (A) a solvency opinion from a Financial Adviser confirming the solvency of that Debtor, after giving effect to such Intra-Group Disposal and any transactions related to such release and retaking;
 - (B) a certificate from an Officer of the Parent, which certificate confirms the solvency of the Debtor granting such Transaction Security after giving effect to such Intra-Group Disposal and any transactions related to such release and retaking; or
 - (C) an opinion of counsel (subject to customary exceptions and qualifications), confirming that, after giving effect to such Intra-Group Disposal and any transactions related to such release and retaking, the Transaction Security created under the Transaction Security Documents so released and retaken is valid and perfected Transaction Security not otherwise subject to any limitation, imperfection or new hardening period, in equity or at law, that such Transaction Security was not otherwise subject to immediately prior to such release and retaking.
- (c) Each release of Transaction Security or any claim described in paragraph (a) above shall (to the extent permitted under applicable law) become effective only upon the making of the relevant Non-Distressed Disposal.

11.3 Disposal Proceeds

Notwithstanding anything contained herein to the contrary, if any Disposal Proceeds are required to be applied in mandatory prepayment of the Credit Facility Liabilities or the Pari Passu Debt Liabilities then those Disposal Proceeds shall be applied in accordance with the relevant Debt Documents and the consent of any other Party shall not be required for that application.

11.4 Release of a Debtor

If a member of the Group ceases to be a Debtor in accordance with Clause 20.12 (Resignation of a Debtor), then the Security Agent is irrevocably authorised and obliged (at the cost of the relevant Debtor or the Parent and without any consent, sanction, authority or further confirmation from any Creditor or Debtor):

- (a) to release the Transaction Security or any other claim (relating to a Debt Document) over that Debtor's assets; and
- (b) to execute and deliver or enter into any release of the Transaction Security or any claim described in paragraph (a) above and issue any certificates of non-crystallisation of any floating charge or any consent to dealing that are reasonably requested by the Parent and may be necessary or desirable to effect such release.

11.5 Permitted Reorganisations

In circumstances where a Debtor is party to a Permitted Reorganisation, the Security Agent is irrevocably authorised and required (at the cost of the Parent and without any consent, sanction, authority or further confirmation from any Creditor, other Secured Party or Debtor), to the extent necessary for that Permitted Reorganisation to occur only, to release the Transaction Security over the shares in the capital of that Debtor or its assets, provided that:

- (a) to the extent that replacement Transaction Security is required from the surviving entity under the terms of the Debt Documents, such Transaction Security will (subject to any requirements relating to the release, retaking, amendment or extension of the Transaction Security under the Debt Documents) be granted at the same time as (or before) the relevant Permitted Reorganisation is effected; and
- (b) to the extent that replacement Transaction Security is required from the surviving entity under the terms of the Debt Documents, contemporaneously with such Permitted Reorganisation (followed by an immediate retaking of Security of at least equivalent ranking over the same assets), the Parent delivers to the Security Agent either:
 - (i) a solvency opinion from a Financial Adviser confirming the solvency of that Debtor (or, if different, the surviving entity), after giving effect to such Permitted Reorganisation and any transactions related to such release and retaking;
 - (ii) a certificate from an Officer of the Parent which certificate confirms the solvency of that Debtor (or, if different, the surviving entity) granting such Transaction Security after giving effect to such Permitted Reorganisation and any transactions related to such release and retaking; or
 - (iii) an opinion of counsel (subject to customary exceptions and qualifications), confirming that, after giving effect to such Permitted Reorganisation any transactions related to such release and retaking, the Transaction Security created under the Transaction Security Documents so released and retaken is valid and perfected Transaction Security not otherwise subject to any limitation imperfection or new hardening period, in equity or at law, that such Transaction Security was not otherwise subject to immediately prior to such release and retaking.

11.6 Permitted releases

- (a) In circumstances where the Parent certifies for the benefit of the Security Agent that a Debtor is effecting a release pursuant to sections 4.13 (Limitation on Asset Sales Involving Certain Collateral), 4.21 (Total Loss Events), 4.24 (Vessel Covenants) or 11.09 (Addition and Substitution of Qualified Collateral: Designation as a Mortgaged Vessel) of the Senior Secured Notes Indenture or provisions having substantially the same effect in the Credit Facility Documents or the Pari Passu Debt Documents, the Security Agent is irrevocably authorised and required (at the cost of the Parent and without any consent, sanction, authority or further confirmation from any Creditor, other Secured Party or Debtor) and subject to the fulfilment of the conditions at Clause 11.6(b) to:
- (i) release the Transaction Security over that asset; and
 - (ii) execute and deliver or enter into any release of the Transaction Security described in paragraph (i) above and issue any certificates of non-crystallisation of any floating charge or any consent to dealing that are reasonably requested by the Parent and are necessary or desirable to effect such release.
- (b) The conditions referred to in Clause 11.6(a) are that:
- (i) an Officer of the Parent certifies for the benefit of the Security Agent (and supplies a copy to each Creditor Representative) that the release and, if the release is of Charged Property, the release of Transaction Security is expressly permitted under this Agreement, the Credit Facility Documents and the Pari Passu Debt Documents or each Creditor Representative authorises the release;
 - (ii) the release and, if the release is of Charged Property, the release of Transaction Security is not taking place on or after a Distress Event or being effected at the request of the Instructing Group in circumstances where the Transaction Security has become enforceable or being effected by enforcement of the Transaction Security; and
 - (iii) to the extent that new or replacement Transaction Security is required under the terms of the Debt Documents as a condition to that release, contemporaneously with such release (followed by an immediate granting of that new or replacement Transaction Security of at least equivalent ranking), the Parent delivers to the Security Agent either:
 - (A) a solvency opinion from a Financial Adviser confirming the solvency of that Debtor, after giving effect to such transaction and any transactions related to such release and retaking;
 - (B) a certificate from an Officer of the Parent, which certificate confirms the solvency of the Debtor granting such Transaction Security after giving effect to such transaction and any transactions related to such release and retaking; or
 - (C) an opinion of counsel (subject to customary exceptions and qualifications), confirming that, after giving effect to such transaction and any transactions related to such release and retaking, the Transaction Security created under the Transaction Security Documents so released and taken is valid and perfected Transaction Security not otherwise subject to any limitation imperfection or new hardening period, in equity or at law, that such Transaction Security was not otherwise subject to immediately prior to such release and taking.

12. DISTRESSED DISPOSALS

12.1 Facilitation of Distressed Disposals

Subject to Clause 12.4 (Restriction on enforcement), if a Distressed Disposal is being effected the Security Agent is irrevocably authorised (at the cost of the Parent and without any consent, sanction, authority or further confirmation from any Creditor, other Secured Party or Debtor):

- (a) **release of Transaction Security/non-crystallisation certificates:** to release the Transaction Security or any other claim over the asset subject to the Distressed Disposal and execute and deliver or enter into any release of that Transaction Security or claim and issue any letters of non-crystallisation of any floating charge or any consent to dealing that may, in the discretion of the Security Agent, be considered necessary or desirable;
- (b) **release of liabilities and Transaction Security on a share sale (Debtor):** if the asset subject to the Distressed Disposal consists of shares in the capital of a Debtor, to release:
 - (i) that Debtor and any Subsidiary of that Debtor from all or any part of:
 - (A) its Borrowing Liabilities;
 - (B) its Guarantee Liabilities; and
 - (C) its Other Liabilities;
 - (ii) any Transaction Security granted by that Debtor or any Subsidiary of that Debtor over any of its assets; and
 - (iii) any other claim of an Intra-Group Lender, or another Debtor over that Debtor's assets or over the assets of any Subsidiary of that Debtor,on behalf of the relevant Creditors and Debtors;
- (c) **release of liabilities and Transaction Security on a share sale (Holding Company):** if the asset subject to the Distressed Disposal consists of shares in the capital of any Holding Company of a Debtor, to release:
 - (i) that Holding Company and any Subsidiary of that Holding Company from all or any part of:
 - (A) its Borrowing Liabilities;
 - (B) its Guarantee Liabilities; and
 - (C) its Other Liabilities;
 - (ii) any Transaction Security granted by that Holding Company or any Subsidiary of that Holding Company over any of its assets; and
 - (iii) any other claim of an Intra-Group Lender or another Debtor over the assets of any Subsidiary of that Holding Company,on behalf of the relevant Creditors and Debtors;

- (d) **facilitative disposal of liabilities on a share sale:** if the asset subject to the Distressed Disposal consists of shares in the capital of a Debtor or the Holding Company of a Debtor and if it is intended that the Security Agent is to dispose of all or any part of:
- (i) the Liabilities (other than Liabilities due to any Creditor Representative or Arranger); or
 - (ii) the Debtors' Intra-Group Receivables,
- owed by that Debtor or Holding Company or any Subsidiary of that Debtor or Holding Company on the basis that any transferee of those Liabilities or Debtors' Intra-Group Receivables (the **Transferee**) will not be treated as a Primary Creditor or a Secured Party for the purposes of this Agreement, to execute and deliver or enter into any agreement to dispose of all or part of those Liabilities or Debtors' Intra-Group Receivables on behalf of the relevant Creditors and Debtors *provided that* notwithstanding any other provision of any Debt Document the Transferee shall not be treated as a Primary Creditor or a Secured Party for the purposes of this Agreement;
- (e) **sale of liabilities on a share sale:** if the asset subject to the Distressed Disposal consists of shares in the capital of a Debtor or the Holding Company of a Debtor and if it is intended that the Security Agent is to dispose of all or any part of:
- (i) the Liabilities (other than Liabilities due to any Creditor Representative or Arranger); or
 - (ii) the Debtors' Intra-Group Receivables,
- owed by that Debtor or Holding Company or any Subsidiary of that Debtor or Holding Company on the basis that any transferee of those Liabilities or Debtors' Intra-Group Receivables will be treated as a Primary Creditor or a Secured Party for the purposes of this Agreement, to execute and deliver or enter into any agreement to dispose of:
- (A) all (and not part only) of the Liabilities owed to the Primary Creditors (other than to any Creditor Representative or Arranger); and
 - (B) all or part of any other Liabilities (other than Liabilities owed to any Creditor Representative or Arranger) and the Debtors' Intra-Group Receivables,
- on behalf of, in each case, the relevant Creditors and Debtors;
- (f) **transfer of obligations in respect of liabilities on a share sale:** if the asset subject to the Distressed Disposal consists of shares in the capital of a Debtor or the Holding Company of a Debtor (the **Disposed Entity**) and if it is intended that the Security Agent is to transfer to another Debtor (the **Receiving Entity**) all or any part of the Disposed Entity's obligations or any obligations of any Subsidiary of that Disposed Entity in respect of:
- (i) the Intra-Group Liabilities; or
 - (ii) the Debtors' Intra-Group Receivables,
- to execute and deliver or enter into any agreement to:
- (A) agree to the transfer of all or part of the obligations in respect of those Intra-Group Liabilities or Debtors' Intra-Group Receivables on behalf of the relevant Intra-Group Lenders and Debtors to which those obligations are owed and on behalf of the Debtors which owe those obligations; and

- (B) to accept the transfer of all or part of the obligations in respect of those Intra-Group Liabilities or Debtors' Intra-Group Receivables on behalf of the Receiving Entity or Receiving Entities to which the obligations in respect of those Intra-Group Liabilities or Debtors' Intra-Group Receivables are to be transferred.

12.2 Proceeds of Distressed Disposals and Debt Disposals

The net proceeds of each Distressed Disposal and each Debt Disposal shall be paid, or distributed, to the Security Agent for application in accordance with Clause 15 (Application of Proceeds) and, to the extent that any Liabilities Sale has occurred, as if that Liabilities Sale had not occurred.

12.3 Fair value

In the case of:

- (a) a Distressed Disposal; or
- (b) a Liabilities Sale/Debt Disposal,

effected by, or at the request of, the Security Agent, the Security Agent shall act in accordance with this Agreement.

12.4 Restriction on enforcement

If a Distressed Disposal or a Liabilities Sale/Debt Disposal is being effected:

- (a) the Security Agent is not authorised to release any Debtor, Subsidiary or Holding Company from any Borrowing Liabilities or Guarantee Liabilities owed to any Primary Creditor except in accordance with this Clause 12 (Distressed Disposals);
- (b) subject to Clause 12.5 (Non-Cash Consideration), a Distressed Disposal or a Debt Disposal may be made in whole or in part for consideration in the form of cash or, if not for cash, for Non-Cash Consideration the form of which is acceptable to the Security Agent (acting on the instructions of the Instructing Group); and
- (c) the relevant Primary Creditors shall simultaneously effect the unconditional release (or unconditional transfer to the purchaser of the relevant member of the Group) of all Borrowing Liabilities, Guarantee Liabilities and Other Liabilities owing to the Primary Creditors by the relevant Debtor and each of its direct and indirect Subsidiaries.

12.5 Non-Cash Consideration

No Distressed Disposal or Debt Disposal may be made for Non-Cash Consideration unless the prior consent of the Instructing Group (acting in accordance with the Enforcement Principles) is obtained.

12.6 Appointment of Financial Adviser

Without prejudice to Clause 18.8 (Rights and discretions), the Security Agent may engage, or approve the engagement of, and rely on the services of a Financial Adviser at the joint and several expense of the Debtors.

12.7 Security Agent's actions

For the purposes of Clause 12.1 (Facilitation of Distressed Disposals), Clause 12.3 (Fair value) and Clause 12.5 (Non-Cash Consideration) the Security Agent shall act on the instructions of the Instructing Group.

13. FURTHER ASSURANCE – DISPOSALS AND RELEASES

Each Creditor and Debtor will:

- (a) do all things that the Security Agent requests in order to give effect to Clause 11 (Non-Distressed Disposals) and Clause 12 (Distressed Disposals) (which shall include, without limitation, the execution of any assignments, transfers, releases or other documents that may be necessary to give effect to the releases or disposals contemplated by those Clauses); and
- (b) if the Security Agent is not entitled to take any of the actions contemplated by those Clauses or if the Security Agent requests that any Creditor or Debtor take any such action, take that action itself in accordance with the instructions of the Security Agent,

provided that the proceeds of those disposals are applied in accordance with Clause 11 (Non-Distressed Disposals) or Clause 12 (Distressed Disposals) as the case may be.

14. NON-CASH RECOVERIES

14.1 Security Agent and Non-Cash Recoveries

To the extent the Security Agent receives or recovers any Non-Cash Recoveries, it shall (acting on the instructions of the Instructing Group) but without prejudice to its ability to exercise discretion under Clause 15.2 (Prospective liabilities):

- (a) distribute those Non-Cash Recoveries pursuant to Clause 15 (Application of Proceeds) as if they were Cash Proceeds;
- (b) hold, manage, exploit, collect, realise and dispose of those Non-Cash Recoveries; and
- (c) hold, manage, exploit, collect, realise and distribute any resulting Cash Proceeds.

14.2 Cash value of Non-Cash Recoveries

- (a) The cash value of any Non-Cash Recoveries shall be determined by reference to a valuation obtained by the Security Agent from a Financial Adviser appointed by the Security Agent pursuant to Clause 12.6 (Appointment of Financial Adviser) taking into account any notional conversion made pursuant to Clause 15.4 (Currency conversion).
- (b) If any Non-Cash Recoveries are distributed pursuant to Clause 15 (Application of Proceeds), the extent to which such distribution is treated as discharging the Liabilities shall be determined by reference to the cash value of those Non-Cash Recoveries determined pursuant to paragraph (a) above.

14.3 Facility Agents and Non-Cash Recoveries

- (a) Subject to paragraph (b) below and to Clause 14.4 (Alternative to Non-Cash Consideration), if, pursuant to Clause 15.1 (Order of application), a Creditor Representative receives Non-Cash Recoveries for application towards the discharge of any Liabilities, that Creditor Representative shall apply those Non-Cash Recoveries in accordance with the relevant Debt Document as if they were Cash Proceeds.

- (b) A Creditor Representative may:
 - (i) use any reasonably suitable method of distribution, as it may determine in its discretion, to distribute those Non-Cash Recoveries in the order of priority that would apply under the relevant Debt Document if those Non-Cash Recoveries were Cash Proceeds;
 - (ii) hold any Non-Cash Recoveries through another person; and
 - (iii) hold any amount of Non-Cash Recoveries for so long as that Creditor Representative shall think fit for later application pursuant to paragraph (a) above.

14.4 Alternative to Non-Cash Consideration

- (a) If any Non-Cash Recoveries are to be distributed pursuant to Clause 15 (Application of Proceeds), the Security Agent shall (prior to that distribution and taking into account the Liabilities then outstanding and the cash value of those Non-Cash Recoveries) notify each Creditor Representative entitled to receive those Non-Cash Recoveries on behalf and for the benefit of their applicable Primary Creditors pursuant to that distribution (the **Entitled Creditors**).
- (b) If:
 - (i) it would be unlawful for an Entitled Creditor to receive such Non-Cash Recoveries (or it would otherwise conflict with that Entitled Creditor's constitutional documents for it to do so); and
 - (ii) that Entitled Creditor promptly so notifies the Security Agent and supplies such supporting evidence as the Security Agent may reasonably require,that Primary Creditor shall be a **Cash Only Creditor** and the Non-Cash Recoveries to which it is entitled shall be **Retained Non-Cash**.
- (c) To the extent that, in relation to any distribution of Non-Cash Recoveries, there is a Cash Only Creditor:
 - (i) the Security Agent shall not distribute any Retained Non-Cash to that Cash Only Creditor (or to any Creditor Representative on behalf of that Cash Only Creditor) but shall otherwise treat the Non-Cash Recoveries in accordance with this Agreement;
 - (ii) the Security Agent shall notify the relevant Creditor Representative of that Cash Only Creditor's identity and its status as a Cash Only Creditor; and
 - (iii) to the extent notified pursuant to paragraph (ii) above, no Creditor Representative shall distribute any of those Non-Cash Recoveries to that Cash Only Creditor.
- (d) Subject to Clause 14.5 (Security Agent protection), the Security Agent shall hold any Retained Non-Cash and shall, acting on the instructions of the Cash Only Creditor entitled to it, manage, exploit, collect, realise and dispose of that Retained Non-Cash for cash consideration and shall distribute any Cash Proceeds of that Retained Non-Cash to that Cash Only Creditor in accordance with Clause 15 (Application of Proceeds).

- (e) On any such distribution of Cash Proceeds which are attributable to a disposal of any Retained Non-Cash, the extent to which such distribution is treated as discharging the Liabilities due to the relevant Cash Only Creditor shall be determined by reference to:
 - (i) the valuation which determined the extent to which the distribution of the Non-Cash Recoveries to the other Entitled Creditors discharged the Liabilities due to those Entitled Creditors; and
 - (ii) the Retained Non-Cash to which those Cash Proceeds are attributable.
- (f) Each Primary Creditor shall, following a request by the Security Agent (acting in accordance with Clause 12.7 (Security Agent's actions)), notify the Security Agent of the extent to which paragraph (b)(i) above would apply to it in relation to any distribution or proposed distribution of Non-Cash Recoveries. Absent written notice to the contrary from a Creditor, the Security Agent shall be entitled to conclusively assume that no Creditor is a Cash Only Creditor.

14.5 Security Agent protection

- (a) No Distressed Disposal or Liabilities Sale may be made in whole or part for Non-Cash Consideration if the Security Agent in its sole discretion believes that its receiving, distributing, holding, managing, exploiting, collecting, realising or disposing of that Non-Cash Consideration may have an adverse effect on it.
- (b) If Non-Cash Consideration is distributed to the Security Agent under this Agreement, including without limitation, pursuant to Clause 8.2 (Turnover by the Primary Creditors) or Clause 8.3 (Turnover by the other Creditors) the Security Agent may, at any time after notifying the Creditors entitled to that Non-Cash Consideration and notwithstanding any instruction from a Creditor or group of Creditors pursuant to the terms of any Debt Document, immediately realise and dispose of that Non-Cash Consideration for cash consideration (and distribute any Cash Proceeds of that Non-Cash Consideration to the relevant Creditors in accordance with Clause 15 (Application of Proceeds)) if the Security Agent in its sole discretion believes that holding, managing, exploiting or collecting that Non-Cash Consideration may have an adverse effect on it.
- (c) If the Security Agent holds Retained Non-Cash for a Cash Only Creditor (each as defined in Clause 14.4 (Alternative to Non-Cash Consideration)) the Security Agent may at any time, after notifying that Cash Only Creditor and notwithstanding any instruction from a Creditor or group of Creditors pursuant to the terms of any Debt Document, immediately realise and dispose of that Retained Non-Cash for cash consideration (and distribute any Cash Proceeds of that Retained Non-Cash to that Cash Only Creditor in accordance with Clause 15 (Application of Proceeds)) if the Security Agent in its sole discretion believes that holding, managing, exploiting or collecting that Retained Non-Cash may have an adverse effect on it.

15. APPLICATION OF PROCEEDS

15.1 Order of application

Subject to Clause 15.2 (Prospective liabilities), all amounts from time to time received or recovered by the Security Agent pursuant to the terms of any Debt Document or in connection with the realisation or enforcement of all or any part of the Transaction Security (for the purposes of this Clause 15, the **Recoveries**) shall be held by the Security Agent on trust to apply them at any time as the Security Agent (in its discretion) sees fit, to the extent permitted by applicable law (and subject to the provisions of this Clause 15), in the following order of priority:

- (a) to the Security Agent for payment of any fees, costs, expenses, liabilities and indemnities owing to the Security Agent (other than pursuant to Clause 18.2 (Parallel debt)), any Receiver or any Delegate and to the Creditor Representatives for payment of the Creditor Representative Amounts;
- (b) in discharging all costs and expenses incurred by any Primary Creditor in connection with any realisation or enforcement of the Transaction Security taken in accordance with the terms of this Agreement or any action taken at the request of the Security Agent under Clause 7.6 (Further assurance – Insolvency Event) on a *pro rata* basis between them;
- (c) in payment or distribution to each Creditor Representative in respect of a Credit Facility on its own behalf and on behalf of the Credit Facility Creditors for which it is the Creditor Representative for application towards the discharge of the Credit Facility Liabilities (in accordance with the terms of the Credit Facility Documents) on a *pro rata* basis between Credit Facility Liabilities incurred under separate Credit Facility Agreements;
- (d) in payment or distribution to the Creditor Representatives in respect of any Pari Passu Debt Liabilities on its own behalf and on behalf of the Pari Passu Debt Creditors for which it is the Creditor Representative for application towards the discharge of:
 - (i) the Pari Passu Debt Liabilities (in accordance with the terms of the relevant Pari Passu Debt Documents) on a *pro rata* basis between Pari Passu Debt Liabilities under separate Pari Passu Facility Agreements; and
 - (ii) the Pari Passu Debt Liabilities (in accordance with the terms of the relevant Pari Passu Debt Documents) on a *pro rata* basis between Pari Passu Debt Liabilities under separate Pari Passu Note Indentures,on a *pro rata* basis between sub-paragraphs (i) and (ii);
- (e) if none of the Debtors is under any further actual or contingent liability under any Credit Facility Document or Pari Passu Debt Document in payment or distribution to any person to whom the Security Agent is obliged under applicable laws to pay or distribute in priority to any Debtor; and
- (f) the balance, if any, in payment or distribution to the relevant Debtor.

15.2 Prospective liabilities

Following a Distress Event the Security Agent may, in its discretion hold any amount of the Recoveries in one or more interest bearing suspense or impersonal accounts in the name of the Security Agent with such financial institution (including itself) as the Security Agent shall think fit (the interest being credited to the relevant account) for so long as the Security Agent shall think fit for later application under Clause 15.1 (Order of application) in respect of:

- (a) any sum to any Security Agent, any Receiver or any Delegate; and
- (b) any part of the Liabilities,

that the Security Agent reasonably considers, in each case, might become due or owing at any time in the future.

15.3 Deposit of cash proceeds

(a) Subject to Clause 15.3(b), prior to the application of the proceeds of the Security Property in accordance with Clause 15.1 (Order of application) the Security Agent may, in its discretion, hold all or part of any cash proceeds in one or more interest bearing suspense or impersonal accounts in the name of the Security Agent with such financial institution (including itself) and for so long as the Security Agent shall think fit (the interest being credited to the relevant account) pending the application from time to time of those monies in the Security Agent's discretion in accordance with the provisions of this Clause 15.

(b) If the Security Agent receives proceeds of the Security Property prior to an Acceleration Event and an Officer of the Parent certifies that:

- (i) the payment of the proceeds (or part thereof) into the Collateral Account is expressly permitted under this Agreement, the Credit Facility Documents and the Pari Passu Debt Documents; and
- (ii) no Event of Default has occurred and is continuing,

the proceeds (or part thereof) shall be paid into the Collateral Account.

15.4 Currency conversion

(a) For the purpose of, or pending the discharge of, any of the Secured Obligations the Security Agent or its agent may:

- (i) convert any moneys received or recovered by the Security Agent (including, without limitation, any cash proceeds) from one currency to another, at the Spot Rate of Exchange; and
- (ii) notionally convert the valuation provided in any opinion or valuation from one currency to another, at the Spot Rate of Exchange.

(b) The obligations of any Debtor to pay in the due currency shall only be satisfied:

- (i) in the case of paragraph (a)(i) above, to the extent of the amount of the due currency purchased after deducting the costs of conversion; and
- (ii) in the case of paragraph (a)(ii) above, to the extent of the amount of the due currency which results from the notional conversion referred to in that paragraph.

15.5 Permitted Deductions

The Security Agent shall be entitled, in its discretion, (a) to set aside by way of reserve amounts required to meet and (b) to make and pay, any deductions and withholdings (on account of Taxes or otherwise) which it is or may be required by any law or regulation to make from any distribution or payment made by it under this Agreement, and to pay all Taxes which may be assessed against it in respect of any of the Charged Property, or as a consequence of performing its duties or exercising its rights, powers, authorities and discretions, or by virtue of its capacity as Security Agent under any of the Debt Documents or otherwise (other than in connection with its remuneration for performing its duties under this Agreement).

15.6 Good Discharge

- (a) Any distribution or payment to be made in respect of the Secured Obligations by the Security Agent shall only be made to the relevant Creditor Representative on behalf of its Primary Creditors and in no event shall the Security Agent have any obligation to make such payment or distribution directly to any Primary Creditor.
- (b) Any distribution or payment made as described in paragraph (a) above shall be a good discharge, to the extent of that payment or distribution, by the Security Agent.
- (c) The Security Agent is under no obligation to make the payments to the Creditor Representatives under paragraph (a) above in the same currency as that in which the Liabilities owing to the relevant Primary Creditor are denominated pursuant to the relevant Debt Document.

15.7 Calculation of Amounts

For the purpose of calculating any person's share of any amount payable to or by it, the Security Agent shall be entitled to:

- (a) request and conclusively rely upon a certificate from each Creditor Representative as to the amounts due to such Creditor Representative and the Primary Creditors that such Creditor Representative represents, and the Security Agent shall incur no liability for any distributions made by it in reliance upon certifications;
- (b) notionally convert the Liabilities owed to any person into a common base currency, that notional conversion to be made at the then prevailing rate at which the Security Agent or its agent is able to purchase the notional base currency with the actual currency of the Liabilities owed to that person at the time at which that calculation is to be made; and
- (c) assume that all amounts received or recovered as a result of the enforcement or realisation of the Security Property are applied in discharge of the Liabilities in accordance with the terms of the Debt Documents under which those Liabilities have arisen.

16. EQUALISATION

16.1 Equalisation Definitions

For the purposes of this Clause 16:

Enforcement Date means the first date (if any) on which a Credit Facility Creditor takes enforcement action of the type described in paragraphs (a) (i), (a)(iii), (a)(iv) or (c) of the definition of **Enforcement Action** in accordance with the terms of this Agreement.

Exposure means in relation to a Credit Facility Lender, the aggregate amount of its participation (if any, and without double counting) in all Utilisations outstanding under the Credit Facility Agreements at the Enforcement Date (assuming all contingent liabilities which have become actual liabilities since the Enforcement Date to have been actual liabilities at the Enforcement Date (but not

including, for these purposes only, any interest that would have accrued from the Enforcement Date to the date of actual maturity in respect of those liabilities) and assuming any transfer of claims between Credit Facility Lenders pursuant to any loss-sharing arrangement in the Credit Facility Agreements which has taken place since the Enforcement Date to have taken place at the Enforcement Date) together with the aggregate amount of all accrued interest, fees and commission owed to it under the Credit Facility Agreement; and

Utilisation means a “utilisation” (however defined) of a facility under the Initial Term Facility Agreement or the relevant Credit Facility Document.

16.2 Equalisation

If, for any reason, any Credit Facility Liabilities remain unpaid after the Enforcement Date and the resulting losses are not borne by the Credit Facility Lenders in the proportions which their respective Exposures at the Enforcement Date bore to the aggregate Exposures of all the Credit Facility Lenders at the Enforcement Date, the Credit Facility Lenders will make such payments amongst themselves to put the Credit Facility Lenders in such a position that (after taking into account such payments) those losses are borne in those proportions.

16.3 Turnover of enforcement proceeds

If:

- (a) the Security Agent or a Creditor Representative is not entitled, for reasons of applicable law, to pay or distribute amounts received pursuant to the making of a demand under any guarantee, indemnity or other assurance against loss or the enforcement of the Transaction Security to the relevant Credit Facility Creditors but is entitled to pay or distribute those amounts to Creditors (such Creditors, the **Receiving Creditors**) who, in accordance with the terms of this Agreement, are subordinated in right and priority of payment to the relevant Credit Facility Creditors; and
- (b) the Credit Facility Lender Discharge Date has not yet occurred (nor would occur after taking into account such payments),

then the Receiving Creditors shall make such payments or distributions to the relevant Credit Facility Creditors to place the relevant Credit Facility Creditors in the position they would have been in had such amounts been available for application against the Credit Facility Liabilities.

16.4 Notification of Exposure

Before each occasion on which the provisions of this Clause 16 shall be implemented, the relevant Creditor Representative shall send notice to the Credit Facility Lenders notifying them of the Exposure of each Credit Facility Lender (if any).

16.5 Default in payment

If a Credit Facility Creditor fails to make a payment due from it under this Clause 16, the relevant Creditor Representative for such Credit Facility Creditor(s) shall be entitled (but not obliged) to take action on behalf of the Credit Facility Creditor(s) to whom such payment was to be redistributed (subject to being indemnified to its satisfaction by such Credit Facility Creditor(s) in respect of costs) but shall have no liability or obligation towards such Credit Facility Creditor(s) or any other Primary Creditor as regards such default in payment and any loss suffered as a result of such default shall lie where it falls.

17. QUIET ENJOYMENT

- (a) Prior to the Term Lender Discharge Date, if so requested by the Parent on not less than five days' notice, in relation to any new charter or extension to an Approved Charter or in relation to an existing charter for any Additional Vessel (each as defined in the Initial Term Facility Agreement), the Primary Creditors authorise and instruct the Security Agent, without further consent from the Primary Creditors, to enter into a quiet enjoyment letter in favour of the relevant charterer on the following terms:
- (i) the Parent will only request that the Security Agent enter into a quiet enjoyment letter in relation to any new charter or extension to an Approved Charter or in relation to an existing charter for any Additional Vessel (each as defined in the Initial Term Facility Agreement), if specifically requested to do so by the charterer as a condition to entry into the relevant charter or charter extension;
 - (ii) if required by the charterer to enter into a quiet enjoyment letter, the Parent will use its reasonable commercial efforts to agree a quiet enjoyment letter in the form attached as Part 2 of Schedule 6, or if it cannot be agreed in its entirety, to agree a form of quiet enjoyment letter containing as many of the elements of such form as possible; and
 - (iii) if the Parent is unable, by using its reasonable commercial efforts, to agree a quiet enjoyment agreement in the in the form attached as Part 2 of Schedule 6, the Primary Creditors authorise the Security Agent, upon the Parent's request, to enter into a quiet enjoyment letter in the form attached as Part 1 of Schedule 6 or in such other form that an officer of the Parent confirms in writing to the Security Agent is no less favourable to the interests of the Primary Creditors than the form attached as Part 1 of Schedule 6.
- (b) After the Term Lender Discharge Date, the Primary Creditors authorise the Security Agent, and the Security Agent is required, upon the Parent's request and if so requested by the charterer, to enter into a quiet enjoyment letter in the form attached as Part 1 of Schedule 6 or in such other form as the Parent certifies to the Senior Secured Note Trustee and Security Agent is not materially less favourable to the Primary Creditors (as determined in good faith by the Parent).

18. THE SECURITY AGENT

18.1 Security Agent as trustee

- (a) Unless expressly provided to the contrary in any Debt Document, the Security Agent declares that it holds the Security Property on trust for the Secured Parties on the terms contained in this Agreement.
- (b) The Security Agent does not hold any Security Property governed by Dutch law on trust for the Secured Parties.
- (c) Each of the Primary Creditors authorises the Security Agent to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Security Agent under or in connection with the Debt Documents together with any other incidental rights, powers, authorities and discretions.
- (d) Every provision of this Agreement or any related document relating to the conduct or affecting the liability of or affording protection to the Security Agent shall be subject to the provisions of this Clause 18.

18.2 Parallel debt

- (a) Each of the Debtors hereby irrevocably and unconditionally agrees and undertakes with the Security Agent and each Secured Party acknowledges that each of the Debtors shall pay to the Security Agent as creditor in its own right and not as a representative of any other Secured Party sums equal to, and in the currency of, any sums owing from time to time by it to any Secured Party (other than to the Security Agent solely by operation of this provision) under any Primary Finance Documents (the **Principal Obligations**) as and when the same fall due for payment under the relevant Primary Finance Document (together with the obligations described in paragraph (g) below, the **Parallel Debt Obligations**).
- (b) Each of the Debtors and each Secured Party (other than the Security Agent) acknowledges that the right of the Security Agent to demand payment of the Parallel Debt Obligations shall be independent, separate and several from, and shall not in any way limit or affect, the rights of the other Secured Parties to demand payment of the Principal Obligations nor shall the Parallel Debt Obligations be limited or affected in any way by the corresponding Principal Obligations provided that (i) the aggregate amount of the Parallel Debt Obligations will never exceed the aggregate amount of the Principal Obligations, (ii) the payment by a Debtor of its Parallel Debt Obligations to the Security Agent in accordance with this Clause 18.2 shall also discharge (in the amount of the relevant payment) the corresponding Principal Obligations and (iii) the payment by a Debtor of its Principal Obligations in accordance with the provisions of the Primary Finance Documents shall also discharge (in the amount of the relevant payment) the corresponding Parallel Debt Obligations provided further that no Principal Obligation shall be discharged by a discharge of the Parallel Debt Obligations if such discharge of the Parallel Debt Obligations is effected by virtue of any set-off, counterclaim or similar defence invoked by a Debtor vis-à-vis the Security Agent other than in accordance with the terms of the Primary Finance Documents.
- (c) Despite the foregoing, any payment under the Primary Finance Documents shall be made to the relevant Creditor Representative unless expressly stated otherwise in any Primary Finance Document or unless the relevant Creditor Representative directs such payment to be made to the Security Agent.
- (d) Without limiting or affecting the Security Agent's rights against any Debtor (whether under this Clause 18.2 or under any provision of the Primary Finance Documents):
- (i) the Security Agent agrees with each other Secured Party (on a several and divided basis) that it will not exercise its rights under the Parallel Debt Obligations in respect of the Principal Obligations owing to a Secured Party except with the consent of the Instructing Group. However, for the avoidance of doubt, nothing in the previous sentence shall in any way limit the Security Agent's right to act in the protection or preservation of rights under any Transaction Security Document or to enforce any Transaction Security as contemplated by this Agreement, the relevant Transaction Security Document or any other Primary Finance Document (or to do any act reasonably incidental to the foregoing);
 - (ii) each Debtor acknowledges that (A) nothing in this Clause 18 shall impose any obligation on the Security Agent to advance any sum to any Debtor or otherwise under any Primary Finance Document, except in its capacity as a Secured Party (if applicable and other than as Security Agent) under any Primary Finance Document in accordance with the terms thereof, and (B) for the purpose of any vote taken under any Primary Finance Document, the Security Agent shall not be regarded as having any participation or commitment other than those which it has in its capacity as a Secured Party (if applicable and other than as Security Agent) under any Primary Finance Document in accordance with the terms thereof.

- (e) The Security Agent acts in its own name (in its capacity as Security Agent hereunder) and not as a trustee, and its claims in respect of the Parallel Debt Obligations shall not be held on trust. The Transaction Security granted under the Primary Finance Documents to the Security Agent to secure the Parallel Debt Obligations is granted to the Security Agent in its capacity as creditor of the Parallel Debt Obligations and shall not be held on trust.
- (f) The Security Agent may enforce performance of any Parallel Debt Obligation in its own name as an independent and separate right. This includes any suit, execution, enforcement of security, recovery of guarantees and applications for and voting in respect of any kind of insolvency proceeding.
- (g) An amount payable in respect of the Parallel Debt Obligations will be payable in the currency or currencies of the relevant Principal Obligations and will become due and payable as and when the Principal Obligations to which it corresponds becomes due and payable. A default (*verzuim*) within the meaning of section 3:248 of the Dutch Civil Code with respect to Principal Obligations shall also constitute a default (*verzuim*) within the meaning of section 3:248 of the Dutch Civil Code with respect to the relevant Parallel Debt Obligations without any notice being required.
- (h) The Security Agent undertakes to pay to the Secured Parties in accordance with the terms of this Agreement any amount collected or received by it in payment or partial payment of the Parallel Debt Obligations as if such amounts had been received in respect of the Principal Obligations. If the Security Agent returns to any Debtor, whether in any kind of insolvency proceedings or otherwise, any recovery in respect of which it has made a payment to a Secured Party, that Secured Party must repay an amount equal to that recovery to the Security Agent.
- (i) Each Secured Party shall, at the request of the Security Agent:
 - (i) do anything required in connection with the enforcement of any Parallel Obligations (including joining in any proceedings as co-claimant with the Security Agent); and
 - (ii) enforce any Principal Obligations.
- (j) Each Debtor irrevocably and unconditionally waives any right it may have to require a Secured Party to join in any proceedings as co-claimant with the Security Agent in respect of any Parallel Obligations.

18.3 Instructions

- (a) The Security Agent shall:
 - (i) subject to paragraphs (d) and (e) below, exercise or refrain from exercising any right, power, authority or discretion vested in it as Security Agent, or as holder of a claim pursuant to any Parallel Obligation, in accordance with any instructions given to it by the Instructing Group; and
 - (ii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with paragraph (i) above (or, if this Agreement stipulates the matter is a decision for any other Creditor or group of Creditors, in accordance with instructions given to it by that Creditor or group of Creditors).
- (b) The Security Agent shall be entitled to request instructions, or clarification of any instruction, from the Instructing Group (or, if this Agreement stipulates the matter is a decision for any other Creditor or group of Creditors, from that Creditor or group of Creditors) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Security Agent may refrain from acting unless and until it receives those instructions or that clarification.

- (c) Save in the case of decisions stipulated to be a matter for any other Creditor or group of Creditors under this Agreement and unless a contrary intention appears in this Agreement, any instructions given to the Security Agent by the Instructing Group shall override any conflicting instructions given by any other Parties and will be binding on all Secured Parties.
- (d) Paragraph (a) above shall not apply:
- (i) where a contrary indication appears in this Agreement;
 - (ii) where this Agreement expressly requires the Security Agent to act in a specified manner or to take a specified action without the instructions of the Instructing Group;
 - (iii) in respect of any provision which protects the Security Agent's own position in its personal capacity as opposed to its role of Security Agent for the Secured Parties including, without limitation, Clauses 18.6 (No duty to account) to Clause 18.11 (Exclusion of liability), Clause 18.14 (Confidentiality) to Clause 18.21 (Custodians and nominees) and Clause 18.24 (Acceptance of title) to Clause 18.27 (Disapplication of Trustee Acts);
 - (iv) in respect of the exercise of the Security Agent's discretion to exercise a right, power or authority under any of:
 - (A) Clause 11 (Non-Distressed Disposals);
 - (B) Clause 15.1 (Order of application);
 - (C) Clause 15.2 (Prospective liabilities); and
 - (D) Clause 15.5 (Permitted Deductions).
- (e) If giving effect to instructions given by the Instructing Group would (in the Security Agent's good faith opinion) have an effect equivalent to an Intercreditor Amendment, the Security Agent shall not act in accordance with those instructions unless consent to those instructions is obtained from each Party (other than the Security Agent) whose consent would have been required in respect of that Intercreditor Amendment.
- (f) With respect to any obligation of the Security Agent that is contained in both the Pari Passu Debt Documents and the Credit Facility Documents (including, without limitation, Schedule 14 (Notes Restrictive Covenants) to the Initial Term Facility Credit Agreement), a Debtor will not exercise any right to give direction or instruction to the Security Agent with respect to such obligation, unless it is authorized and permitted to give such direction or instruction (together with any deliverables required to be delivered to the Security Agent pursuant thereto) under both the Pari Passu Debt Documents and the Credit Facility Documents (including, without limitation, Schedule 14 (Notes Restrictive Covenants) to the Initial Term Facility Credit Agreement). For the avoidance of doubt, the Security Agent shall not be liable for monitoring the Debtors compliance with the foregoing covenant, and shall not be liable to any Person to the extent it acts or omits to act in accordance with any direction or instruction from a Debtor which may have been given in contravention of the foregoing covenant.
- (g) In exercising any discretion to exercise a right, power or authority under the Debt Documents where either:
- (i) it has not received any instructions as to the exercise of that discretion; or
 - (ii) the exercise of that discretion is subject to paragraph (d)(iv) above, the Security Agent shall do so having regard to the interests of all the Secured Parties.

- (h) The Security Agent may refrain from acting in accordance with any instructions of any Creditor or group of Creditors until it has received any indemnification and/or security that it may in its discretion require (which may be greater in extent than that contained in the Debt Documents and which may include payment in advance) for any cost, loss or liability (together with any applicable VAT) which it may incur in complying with those instructions.
- (i) Without prejudice to the provisions of Clause 10 (Enforcement of Transaction Security) and the remainder of this Clause 18.3, in the absence of instructions, the Security Agent may act (or refrain from acting) as it considers in its discretion to be appropriate.

18.4 Duties of the Security Agent

- (a) The Security Agent's duties under the Debt Documents are solely mechanical and administrative in nature.
- (b) The Security Agent shall promptly:
 - (i) forward to each Creditor Representative a copy of any document received by the Security Agent from any Debtor under any Debt Document; and
 - (ii) forward to a Party the original or a copy of any document which is delivered to the Security Agent for that Party by any other Party.
- (c) Except where the Security Agent has expressly agreed otherwise, the Security Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (d) Without prejudice to Clause 23.3 (Notification of prescribed events), if the Security Agent receives notice from a Party referring to any Debt Document, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the Creditor Representatives.
- (e) To the extent that a Party (other than the Security Agent) is required to calculate a Common Currency Amount, the Security Agent shall upon a request by that Party, promptly ascertain the Spot Rate of Exchange from Citibank, N.A., London Branch and notify that Party of the relevant Spot Rate of Exchange to the extent available.
- (f) The Security Agent shall have only those duties, obligations and responsibilities expressly specified in the Debt Documents to which it is a signatory (and no others shall be implied).
- (g) Notwithstanding anything contained herein to the contrary, the right of the Security Agent to perform any discretionary act enumerated in this Agreement, the Debt Documents or any related document shall not be construed as a duty.

18.5 No fiduciary duties to Debtors

Nothing in this Agreement constitutes the Security Agent as an agent, trustee or fiduciary of any Debtor.

18.6 No duty to account

The Security Agent shall not be bound to account to any other Party for any sum or the profit element of any sum received by it for its own account.

18.7 Business with the Group

The Security Agent may accept deposits from, lend money to and generally engage in any kind of banking or other business with any member of the Group.

18.8 Rights and discretions

(a) The Security Agent shall be entitled to:

- (i) rely on any representation, communication, notice or document believed by it to be genuine, correct and appropriately authorised;
- (ii) assume that:
 - (A) any instructions received by it from the Instructing Group, any Creditors, any Creditor Representative or any group of Creditors are duly given in accordance with the terms of the Debt Documents and are given by individuals that are authorized at such time to take specified actions pursuant to this Agreement, the Debt Documents or any related document;
 - (B) unless it has received notice of revocation, that those instructions have not been revoked; and
 - (C) if it receives any instructions to act in relation to the Transaction Security, that all applicable conditions under the Debt Documents for so acting have been satisfied;
- (iii) rely on a certificate from any person:
 - (A) as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or
 - (B) to the effect that such person approves of any particular dealing, transaction, step, action or thing,as sufficient evidence that that is the case and, in the case of paragraph (A) above, may assume the truth and accuracy of that certificate; and
- (iv) conclusively rely (without independent confirmation, verification, inquiry or investigation of the contents thereof), as to the truth of the statements and the correctness of certificates or opinions furnished to the Security Agent under this Agreement or any related document and may conclusively rely and shall be fully protected in acting upon any resolution, certificate, statement, instrument, opinion, notice, request, direction, consent, order, approval, bond or any other paper or document (including any of the foregoing delivered in electronic format) believed by it to be genuine and to have been signed or presented by the proper person or persons and the Security Agent need not investigate any statement, warranty or representation or any fact or matter stated in any such document and may conclusively rely as to the truth of the statements and the correctness of the opinions expressed therein.

(b) The Security Agent may assume (unless it has received notice to the contrary in its capacity as Security Agent for the Secured Parties) that:

- (i) no Default has occurred;

- (ii) any right, power, authority or discretion vested in any Party or any group of Creditors has not been exercised; and
 - (iii) any notice made by the Parent is made on behalf of and with the consent and knowledge of all the Debtors.
- (c) The Security Agent may engage the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts.
- (d) Without prejudice to the generality of paragraph (c) above or paragraph (e) below, the Security Agent may at any time engage the services of any lawyers to act as independent counsel to the Security Agent (and so separate from any lawyers instructed by any Primary Creditor) if the Security Agent in its reasonable opinion deems this to be desirable.
- (e) The Security Agent may rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Security Agent or by any other Party) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.
- (f) The Security Agent, any Receiver and any Delegate may act in relation to the Debt Documents and the Security Property through its officers, employees and agents and shall not:
- (i) be liable for any error of judgment made by any such person; or
 - (ii) be bound to supervise, or be in any way responsible for any loss incurred by reason of misconduct, omission or default on the part of any such person,
- unless such error or such loss was directly caused by the Security Agent's, Receiver's or Delegate's gross negligence or wilful misconduct.
- (g) Unless this Agreement expressly specifies otherwise, the Security Agent may disclose to any other Party any information it reasonably believes it has received as Security Agent under this Agreement.
- (h) Notwithstanding any other provision of any Debt Document to the contrary, the Security Agent is not obliged to do or omit to do anything if it would, or might in its reasonable opinion, constitute a breach of a fiduciary duty or duty of confidentiality or it is not provided for in this Agreement or the other Debt Documents.
- (i) Notwithstanding any provision of any Debt Document to the contrary, the Security Agent is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.
- (j) The Security Agent shall not be required to take any action under this Agreement, the Debt Documents or any related documents if taking such action (A) would subject the Security Agent to a tax in any jurisdiction where it is not then subject to a tax, or (B) would require the Security Agent to qualify to do business in any jurisdiction where it is not then so qualified.
- (k) Prior to taking any action under this Agreement or the relevant Debt Documents, as the case may be, the Security Agent may request and rely upon a certificate of the Parent and an opinion of counsel or opinion of another qualified expert, each at the Parent's expense.

(l) In no event shall the Security Agent be liable for any conversion rate obtained by it (or its agent) under this Agreement.

18.9 Responsibility for documentation

None of the Security Agent, any Receiver nor any Delegate is responsible or liable for:

- (a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Security Agent, a Debtor or any other person in or in connection with any Debt Document or the transactions contemplated in the Debt Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Debt Document, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document or the Security Property;
- (c) the creation, perfection or priority of any lien or security interest purported to be created by this Agreement, the Debt Documents or any related document, or the value or sufficiency of any Security Property;
- (d) the satisfaction of any condition set forth in this Agreement, the Debt Documents or any related document; or
- (e) any determination as to whether any information provided or to be provided to any Secured Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

18.10 No duty to monitor

- (a) The Security Agent shall not be bound to enquire:
 - (i) whether or not any Default has occurred;
 - (ii) as to the performance, default or any breach by any Party of its obligations or covenants under any Debt Document; or
 - (iii) whether any other event specified in any Debt Document has occurred.
- (b) The Security Agent shall not be deemed to have knowledge of any default, breach or any other event specified in any Debt Documents unless a responsible officer of the Security Agent shall have received written notice of such event, referencing this Agreement, at the office of the Security Agent specified in Clause 24.3 (Addresses).

18.11 Exclusion of liability

- (a) Without limiting paragraph (b) below (and without prejudice to any other provision of any Debt Document excluding or limiting the liability of the Security Agent, any Receiver or Delegate), none of the Security Agent, any Receiver nor any Delegate will be liable for:
 - (i) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with any Debt Document or the Security Property unless directly caused by its gross negligence or wilful misconduct;

- (ii) exercising or not exercising any right, power, authority or discretion given to it by, or in connection with, any Debt Document, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Debt Document or the Security Property;
 - (iii) any shortfall which arises on the enforcement or realisation of the Security Property; or
 - (iv) without prejudice to the generality of paragraphs (i) to (iii) above, any damages, costs, losses, any diminution in value or any liability whatsoever arising as a result of:
 - (A) any act, event or circumstance not reasonably within its control; or
 - (B) the general risks of investment in, or the holding of assets in, any jurisdiction, including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of: nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets; breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.
- (b) No Party (other than the Security Agent, that Receiver or that Delegate (as applicable)) may take any proceedings against any officer, employee or agent of the Security Agent, a Receiver or a Delegate in respect of any claim it might have against the Security Agent, a Receiver or a Delegate or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Debt Document or any Security Property and any officer, employee or agent of the Security Agent, a Receiver or a Delegate may rely on this Clause 18.11 subject to Clause 1.3 (Third party rights) and the provisions of the Third Parties Act.
- (c) Nothing in this Agreement shall oblige the Security Agent to carry out:
- (i) any “know your customer” or other checks in relation to any person; or
 - (ii) any check on the extent to which any transaction contemplated by this Agreement might be unlawful for any Primary Creditor,
- on behalf of any Primary Creditor and each Primary Creditor confirms to the Security Agent that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Security Agent.
- (d) Without prejudice to any provision of any Debt Document excluding or limiting the liability of the Security Agent, any Receiver or Delegate, any liability of the Security Agent, any Receiver or Delegate arising under or in connection with any Debt Document or the Security Property shall be limited to the amount of actual loss which has been finally judicially determined to have been suffered (as determined by reference to the date of default of the Security Agent, Receiver or Delegate (as the case may be) or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Security Agent, Receiver or Delegate (as the case may be) at any time which increase the amount of that loss. In no event shall the Security Agent, any Receiver or Delegate be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Security Agent, Receiver or Delegate (as the case may be) has been advised of the possibility of such loss or damages.

- (e) In order to comply with laws, rules, regulations and executive orders in effect from time to time applicable to banking institutions, including those relating to the funding of terrorist activities and money laundering (**Applicable Law**), the Security Agent is required to obtain, verify and record certain information relating to individuals and entities which maintain a business relationship with the Security Agent. Accordingly, each of the Debtors agrees to provide to the Security Agent upon its request from time to time such identifying information and documentation as may be available for such party in order to enable the Security Agent to comply with Applicable Law.

18.12 Primary Creditors' indemnity to the Security Agent

- (a) Each Primary Creditor (other than any Creditor Representative) shall (in the proportion that the Liabilities due to it bear to the aggregate of the Liabilities due to all the Primary Creditors (other than any Creditor Representative) for the time being (or, if the Liabilities due to the Primary Creditors (other than any Creditor Representative) are zero, immediately prior to their being reduced to zero)), indemnify the Security Agent and every Receiver and every Delegate, within three Business Days of demand, against any cost, loss or liability incurred by any of them (otherwise than by reason of the relevant Security Agent's, Receiver's or Delegate's gross negligence or wilful misconduct) in acting as Security Agent, Receiver or Delegate under, or exercising any authority conferred under, the Debt Documents (unless the relevant Security Agent, Receiver or Delegate has been reimbursed by a Debtor pursuant to a Debt Document).
- (b) Subject to paragraph (c) below, the Parent shall immediately on demand reimburse any Primary Creditor for any payment that Primary Creditor makes to the Security Agent pursuant to paragraph (a) above.
- (c) Paragraph (b) above shall not apply to the extent that the indemnity payment in respect of which the Primary Creditor claims reimbursement relates to a liability of the Security Agent to a Debtor.

18.13 Resignation of the Security Agent

- (a) The Security Agent may resign and appoint one of its Affiliates as successor by giving notice to the Primary Creditors and the Parent.
- (b) Alternatively the Security Agent may resign by giving 45 days' notice to each Creditor Representative and the Parent, in which case the Instructing Group may appoint a successor Security Agent.
- (c) If the Instructing Group have not appointed a successor Security Agent in accordance with paragraph (b) above within 35 days after notice of resignation was given, the retiring Security Agent (after consultation with the Creditor Representatives and with the Parent) may appoint a successor Security Agent or may petition a court of competent jurisdiction to appoint a successor Security Agent.
- (d) The retiring Security Agent shall, make available to the successor Agent such documents and records and provide such assistance as the successor Security Agent may reasonably request for the purposes of performing its functions as Security Agent under the Debt Documents. The Parent shall, within five (5) Business Days of demand, reimburse the retiring Security Agent for the amount of all costs and expenses (including legal fees) properly incurred by it in making available such documents and records and providing such assistance.

- (e) The Security Agent's resignation notice shall only take effect upon:
 - (i) the appointment of a successor; and
 - (ii) the transfer of all the Security Property to that successor.
- (f) Upon the appointment of a successor or the termination of this Agreement, the retiring Security Agent shall be discharged from any further obligation in respect of the Debt Documents (other than its obligations under paragraph (b) of Clause 18.25 (Winding up of trust) and paragraph (d) above) but shall remain entitled to the benefit of this Clause 18 and Clause 22.1 (Indemnity to the Security Agent) (and any Security Agent fees for the account of the retiring Security Agent shall cease to accrue from (and shall be payable on) that date) as well as any other provisions of the Debt Documents which expressly survive such discharge. Any successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if that successor had been an original Party.
- (g) The Instructing Group may, by notice to the Security Agent, require it to resign in accordance with paragraph (b) above. In this event, the Security Agent shall resign in accordance with paragraph (b) above.

18.14 Confidentiality

- (a) In acting as trustee for the Secured Parties, the Security Agent shall be regarded as acting through its corporate trust department which shall be treated as a separate entity from any other of its divisions or departments.
- (b) If information is received by another division or department of the Security Agent, it may be treated as confidential to that division or department and the Security Agent shall not be deemed to have notice of it.
- (c) Notwithstanding any other provision of any Debt Document to the contrary, the Security Agent is not obliged to disclose to any other person (i) any confidential information or (ii) any other information if the disclosure would, or might in its opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty.

18.15 Information from the Creditors

- (a) Each Creditor and Creditor Representative shall supply the Security Agent with any information that the Security Agent may reasonably specify as being necessary or desirable to enable the Security Agent to perform its functions as Security Agent.
- (b) Each Creditor and Creditor Representative agrees to render to the Security Agent, at any time upon request of the Security Agent upon reasonable notice, an accounting of the amounts of the liabilities owing to it (and in the case of each Creditor Representative, amounts of the liabilities owing to the Primary Creditors it represents) and such other information with respect to the liabilities owing to each such person as the Security Agent may reasonably request in order to give effect to the terms and conditions of this Agreement. In the event that any Creditor or Creditor Representative fails to provide any information required to be provided by it to the Security Agent, then the Security Agent may (but shall not be obligated to) (i) take such actions as are required to be taken by it based on the most recent information available to it, or (ii) in the case of any distributions to be made pursuant to this Agreement, hold such Creditor's and/or Creditor Representative's share or purported share in escrow (without obligation to pay interest thereon) until such Creditor and/or Creditor Representative provides the required information.

18.16 Credit appraisal by the Secured Parties

Without affecting the responsibility of any Debtor for information supplied by it or on its behalf in connection with any Debt Document, each Secured Party (other than the Security Agent and the Creditor Representatives) confirms to the Security Agent that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Debt Document including but not limited to:

- (a) the financial condition, status and nature of each member of the Group;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Debt Document, the Security Property and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document or the Security Property;
- (c) whether that Secured Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Debt Document, the Security Property, the transactions contemplated by the Debt Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document or the Security Property;
- (d) the adequacy, accuracy or completeness of any information provided by the Security Agent, any Party or by any other person under or in connection with any Debt Document, the transactions contemplated by any Debt Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document; and
- (e) the right or title of any person in or to, or the value or sufficiency of any part of the Charged Property, the priority of any of the Transaction Security or the existence of any Security affecting the Charged Property.

18.17 Security Agent's management time and additional remuneration

- (a) In the event of:
 - (i) a Default;
 - (ii) the Security Agent being requested by a Debtor or the Instructing Group to undertake duties which the Security Agent and the Parent agree to be of an exceptional nature or outside the scope of the normal duties of the Security Agent under the Debt Documents;
 - (iii) the proposed accession of any Credit Facility Creditors or Pari Passu Debt Creditors pursuant to Clause 20.7 (Accession of Credit Facility Creditors under new Credit Facilities) or Clause 20.8 (Accession of Pari Passu Debt Creditors under new Pari Passu Notes or Pari Passu Facilities); or
 - (iv) the Security Agent and the Parent agreeing that it is otherwise appropriate in the circumstances,

the Parent shall pay to the Security Agent any additional remuneration (together with any applicable VAT) that may be agreed between them or determined pursuant to paragraph (b) below. Notwithstanding the foregoing, in no event shall the Security Agent be required to undertake any duties outside the scope of the express duties accepted by it under the Debt Documents unless the Security Agent expressly agrees to do so in writing.

- (b) If the Security Agent and the Parent fail to agree upon the additional remuneration referred to in paragraph (a) above, any dispute shall be determined by an investment bank (acting as an expert and not as an arbitrator) selected by the Security Agent and approved by the Parent or, failing approval, nominated (on the application of the Security Agent) by the President for the time being of the Law Society of England and Wales (the costs of the nomination and of the investment bank being payable by the Parent) and the determination of any investment bank shall be final and binding upon the Parties.

18.18 Reliance and engagement letters

The Security Agent may obtain and rely on any certificate or report from any Debtor's auditor and may enter into any reliance letter or engagement letter relating to that certificate or report on such terms as it may consider appropriate (including, without limitation, restrictions on the auditor's liability and the extent to which that certificate or report may be relied on or disclosed).

18.19 No responsibility to perfect Transaction Security

The Security Agent shall not be liable for any failure to:

- (a) require the deposit with it of any deed or document certifying, representing or constituting the title of any Debtor to any of the Charged Property;
- (b) obtain any licence, consent or other authority for the execution, delivery, legality, validity, enforceability or admissibility in evidence of any Debt Document or the Transaction Security;
- (c) register, file or record or otherwise protect any of the Transaction Security (or the priority of any of the Transaction Security) under any law or regulation or to give notice to any person of the execution of any Debt Document or of the Transaction Security;
- (d) pay or discharge any tax, assessment, or other governmental charge or any lien or encumbrance of any kind owing with respect to, assessed or levied against, any part of the Transaction Security.
- (e) take, or to require any Debtor to take, any step to perfect its title to any of the Charged Property or to render the Transaction Security effective or to secure the creation of any ancillary Security under any law or regulation; or
- (f) require any further assurance in relation to any Security Document.

18.20 Insurance by Security Agent

- (a) The Security Agent shall not be obliged:

- (i) to insure any of the Charged Property or to make any payments with respect to insurance for any of the Charged Property;
- (ii) to require any other person to maintain any insurance; or
- (iii) to verify any obligation to arrange or maintain insurance contained in any Debt Document,

and the Security Agent shall not be liable for any damages, costs or losses to any person as a result of the lack of, or inadequacy of, any such insurance.

- (b) Where the Security Agent is named on any insurance policy as an insured party, it shall not be liable for any damages, costs or losses to any person as a result of its failure to notify the insurers of any material fact relating to the risk assumed by such insurers or any other information of any kind.

18.21 Custodians and nominees

The Security Agent may appoint and pay any person to act as a custodian or nominee on any terms in relation to any asset of the trust as the Security Agent may determine, including for the purpose of depositing with a custodian this Agreement or any document relating to the trust created under this Agreement and the Security Agent shall not be responsible for any loss, liability, expense, demand, cost, claim or proceedings incurred by reason of the misconduct, omission or default on the part of any person appointed by it under this Agreement or be bound to supervise the proceedings or acts of any person.

18.22 Delegation by the Security Agent

- (a) Each of the Security Agent, any Receiver and any Delegate may, at any time, delegate by power of attorney or otherwise to any person for any period, all or any right, power, authority or discretion vested in it in its capacity as such.
- (b) That delegation may be made upon any terms and conditions (including the power to sub-delegate) and subject to any restrictions that the Security Agent, that Receiver or that Delegate (as the case may be) may, in its discretion, think fit in the interests of the Secured Parties.
- (c) No Security Agent, Receiver or Delegate shall be bound to supervise, or be in any way responsible for any damages, costs or losses incurred by reason of any misconduct, omission or default on the part of, any such delegate or sub-delegate.

18.23 Additional Security Agents

- (a) The Security Agent may at any time appoint (and subsequently remove) any person to act as a separate trustee or as a co-trustee jointly with it:
 - (i) if it considers that appointment to be in the interests of the Secured Parties;
 - (ii) for the purposes of conforming to any legal requirement, restriction or condition which the Security Agent deems to be relevant; or
 - (iii) for obtaining or enforcing any judgment in any jurisdiction,and the Security Agent shall give prior notice to the Parent and the Primary Creditors of that appointment.
- (b) Any person so appointed shall have the rights, powers, authorities and discretions (not exceeding those given to the Security Agent under or in connection with the Debt Documents) and the duties, obligations and responsibilities that are given or imposed by the instrument of appointment.
- (c) The remuneration that the Security Agent may pay to that person, and any costs and expenses (together with any applicable VAT) incurred by that person in performing its functions pursuant to that appointment shall, for the purposes of this Agreement, be treated as costs and expenses properly incurred by the Security Agent.

18.24 Acceptance of title

The Security Agent shall be entitled to accept without enquiry, and shall not be obliged to investigate, any right and title that any Debtor may have to any of the Charged Property and shall not be liable for, or bound to require any Debtor to remedy, any defect in its right or title.

18.25 Winding up of trust

If the Security Agent (and, to the extent any Security Agent which has resigned pursuant to Clause 18.13 (Resignation of the Security Agent) is required to deliver any release pursuant to Clause 18.25(b)(ii) below, such resigned Security Agent) receives a certificate from each Creditor Representative that:

- (a) all of the Secured Obligations and all other obligations secured by the Security Documents have been fully and finally discharged; and
- (b) no Secured Party is under any commitment, obligation or liability (actual or contingent) to make advances or provide other financial accommodation to any Debtor pursuant to the Debt Documents,

then:

- (i) the trusts set out in this Agreement shall be wound up and the Security Agent shall release, without recourse or warranty, all of the Transaction Security and the rights of the Security Agent under each of the Security Documents; and
- (ii) any Security Agent which has resigned pursuant to Clause 18.13 (Resignation of the Security Agent) shall release, without recourse or warranty, all of its rights under each Security Document (if any).

18.26 Powers supplemental to Trustee Acts

The rights, powers, authorities and discretions given to the Security Agent under or in connection with the Debt Documents shall be supplemental to the Trustee Act 1925 and the Trustee Act 2000 and in addition to any which may be vested in the Security Agent by law or regulation or otherwise.

18.27 Disapplication of Trustee Acts

Section 1 of the Trustee Act 2000 shall not apply to the duties of the Security Agent in relation to the trusts constituted by this Agreement. Where there are any inconsistencies between the Trustee Act 1925 or the Trustee Act 2000 and the provisions of this Agreement, the provisions of this Agreement shall, to the extent permitted by law and regulation, prevail and, in the case of any inconsistency with the Trustee Act 2000, the provisions of this Agreement shall constitute a restriction or exclusion for the purposes of that Act.

18.28 Intra-Group Lenders and Debtors: Power of Attorney

Each Intra-Group Lender and Debtor by way of security for its obligations under this Agreement irrevocably appoints the Security Agent to be its attorney to do anything which that Intra-Group Lender or Debtor has authorised the Security Agent or any other Party to do under this Agreement or is itself required to do under this Agreement but has failed to do for a period of ten Business Days or at any time after an Event of Default that is continuing (and the Security Agent may delegate that power on such terms as it sees fit).

18.29 Illegality

Notwithstanding anything else herein contained, the Security Agent may refrain without liability from doing anything that would or might in its opinion be contrary to any law of any state or jurisdiction (including but not limited to the United States of America or any jurisdiction forming a part of it and England & Wales) or any directive or regulation of any agency of any such state or jurisdiction and may without liability do anything which is, in its opinion, necessary to comply with any such law, directive or regulation.

18.30 Force Majeure

In no event shall the Security Agent be liable for any failure or delay in the performance of its obligations under this Agreement, the Debt Documents or any related documents because of circumstances beyond the Security Agent's control, including, but not limited to, a failure, termination or suspension of a clearing house, securities depository, settlement system or central payment system in any applicable part of the world or acts of God, flood, war (whether declared or undeclared), civil or military disturbances or hostilities, nuclear or natural catastrophes, political unrest, explosion, severe weather or accident, earthquake, terrorism, fire, riot, labour disturbances, strikes or work stoppages for any reason, embargo, government action, including any laws, ordinances, regulations or the like (whether domestic, federal, state, county or municipal or foreign) which delay, restrict or prohibit the providing of the services contemplated by this Agreement, the Debt Documents or any related documents, or the unavailability of communications or computer facilities, the failure of equipment or interruption of communications or computer facilities, or the unavailability of the Federal Reserve Bank wire or telex or other wire or communication facility, or any other causes beyond the Security Agent's control whether or not of the same class or kind as specified above.

18.31 Merger

Any corporation into which the Security Agent may be merged, or with which it may be consolidated, or any corporation resulting from any merger or consolidation to which the Security Agent shall be a party, shall become the Security Agent under this Agreement without the execution or filing of any document or any further act on the part of the parties hereto.

18.32 Conflict

For the avoidance of doubt, if there are any conflicts between the rights, protections and responsibilities of the Security Agent under the terms of this Agreement and the rights, protections and responsibilities of the Security Agent under the terms of the Debt Documents, the terms of this Agreement shall prevail.

18.33 Enforcement Principles; Enforcement Objective

In no event shall the Security Agent be responsible for complying with or monitoring any Creditor's or Creditor Representative's compliance with the Enforcement Principles or the Enforcement Objective and in no event shall the Security Agent be liable to the extent it is directed by an authorised Creditor Representative or Creditor(s) to enforce the Transaction Security in contravention of the Enforcement Principles or the Enforcement Objective.

18.34 Investments

The Security Agent shall have no obligation to invest or reinvest any cash held by the Security Agent pursuant to this Agreement. For such time as Citibank, N.A., London Branch is the Security Agent it shall not invest or reinvest any cash held by it pursuant to this Agreement, but this shall not prevent it from depositing sums into an interest bearing suspense account.

19. PARI PASSU NOTE TRUSTEE PROTECTIONS

19.1 Limitation of Pari Passu Note Trustee Liability

It is expressly understood and agreed by the Parties that this Agreement is executed and delivered by each Pari Passu Note Trustee not individually or personally but solely in its capacity as a Pari Passu Note Trustee in the exercise of the powers and authority conferred and vested in it under the relevant Pari Passu Debt Documents. It is further understood by the Parties that in no case shall a Pari Passu Note Trustee be (a) responsible or accountable in damages or otherwise to any other Party for any loss, damage or claim incurred by reason of any act or omission performed or omitted by it in good faith in accordance with this Agreement or the relevant Pari Passu Debt Documents and in a manner that the relevant Pari Passu Note Trustee believed to be within the scope of the authority conferred on the Pari Passu Note Trustee by this Agreement and the relevant Pari Passu Debt Documents or by law, or (b) personally liable for or on account of any of the statements, representations, warranties, covenants or obligations stated to be those of any other Party, all such liability, if any, being expressly waived by the Parties and any person claiming by, through or under such Party, provided however, that a Pari Passu Note Trustee shall be personally liable under this Agreement for its own gross negligence or wilful misconduct. It is also acknowledged that a Pari Passu Note Trustee shall not have any responsibility for the actions of any individual Pari Passu Noteholder.

19.2 Note Trustee not fiduciary for other Creditors

The Pari Passu Note Trustee shall not be deemed to owe any fiduciary duty to any of the Creditors (other than the Pari Passu Noteholders for which it is the Creditor Representative in accordance with the Pari Passu Note Indenture) or any member of the Group and shall not be liable to any Creditor (other than the Pari Passu Noteholders for which it is the Creditor Representative) or any member of the Group if the Pari Passu Note Trustee shall in good faith mistakenly pay over or distribute to the Pari Passu Noteholders or to any other person cash, property or securities to which any Creditor (other than the Pari Passu Noteholders for which it is the Creditor Representative) shall be entitled by virtue of this Agreement or otherwise. With respect to the Creditors (other than the Pari Passu Noteholders for which it is the Creditor Representative), the Pari Passu Note Trustee undertakes to perform or to observe only such of its covenants or obligations as are specifically set forth in the relevant Pari Passu Debt Documents (including this Agreement) and no implied covenants or obligations with respect to Creditors (other than the Pari Passu Noteholders for which it is the Creditor Representative) shall be read into this Agreement against a Pari Passu Note Trustee.

19.3 Reliance on certificates

A Pari Passu Note Trustee may rely without enquiry on any notice, consent or certificate of the Security Agent or any other Creditor Representative as to the matters certified therein.

19.4 Pari Passu Note Trustee

In acting under and in accordance with this Agreement a Pari Passu Note Trustee shall act in accordance with the relevant Pari Passu Note Indenture and is entitled to seek instructions from the relevant Pari Passu Noteholders at any time, and where it so acts on the instructions of the Pari Passu Noteholders, the Pari Passu Note Trustee shall not incur any liability to any person for so acting. A Pari Passu Note Trustee is not liable to any person for any loss suffered as a result of any delay caused as a result of it seeking instructions from the Pari Passu Noteholders that it represents. Furthermore, prior to taking any action under this Agreement or the relevant Pari Passu Debt Documents, as the case may be, the Pari Passu Note Trustee may request and conclusively rely upon a certificate from an Officer of the Parent and/or an opinion of counsel or opinion of another qualified expert, at the Parent's expense, as applicable; provided, however, that any such opinions shall be at the expense of the relevant Pari Passu Noteholders, if such actions are on the instructions of the relevant Pari Passu Noteholders.

19.5 Turnover obligations: Pari Passu Note Trustee

Notwithstanding any provision in this Agreement to the contrary, a Pari Passu Note Trustee shall only have an obligation to turn over or repay amounts received or recovered under this Agreement by it (a) if it had actual knowledge that the receipt or recovery is an amount received in breach of a provision of this Agreement (a **Turnover Receipt**) and (b) to the extent that, prior to receiving that knowledge, it has not distributed the amount of the Turnover Receipt to the Pari Passu Noteholders for which it is the Creditor Representative in accordance with the provisions of the relevant Pari Passu Note Indenture. For the purpose of this Clause 19.5, (i) “actual knowledge” of the Pari Passu Note Trustee shall be construed to mean the Pari Passu Note Trustee shall not be charged with knowledge (actual or otherwise) of the existence of facts that would impose an obligation on it to make any payment or prohibit it from making any payment unless a responsible officer of such Pari Passu Note Trustee has received, not less than two Business Days’ prior to the date of such payment, a written notice that such payments are required or prohibited by this Agreement; and (ii) “responsible officer” when used in relation to the Pari Passu Note Trustee means any person who is an officer within the corporate trust and agency department of the Pari Passu Note Trustee, including any director, associate director, vice president, assistant vice president, senior associate, assistant treasurer, trust officer, or any other officer of the Pari Passu Note Trustee who customarily performs functions similar to those performed by such officers, or to whom any corporate trust matter is referred because of such individual’s knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Agreement.

19.6 Creditors and the Pari Passu Note Trustee

In acting pursuant to this Agreement and the relevant Pari Passu Note Indenture, the Pari Passu Note Trustee is not required to have any regard to the interests of the Creditors (other than the Pari Passu Noteholders for which it is the Creditor Representative).

19.7 Pari Passu Note Trustee; reliance and information

- (a) The Pari Passu Note Trustee may rely and shall be fully protected in acting or refraining from acting upon any notice or other document reasonably believed by it to be genuine and correct and to have been signed by, or with the authority of, the proper person.
- (b) Without affecting the responsibility of any Debtor for information supplied by it or on its behalf in connection with any Debt Document, each Primary Creditor (other than the Pari Passu Noteholders for which it is the Creditor Representative) confirms that it has not relied exclusively on any information provided to it by a Pari Passu Note Trustee in connection with any Debt Document. A Pari Passu Note Trustee is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another party.
- (c) A Pari Passu Note Trustee is entitled to assume that:
 - (i) any payment or other distribution made in respect of the Liabilities, respectively, has been made in accordance with the provisions of this Agreement;
 - (ii) any Security granted in respect of the Pari Passu Debt Liabilities is in accordance with Clause 4.2 (Security: Pari Passu Debt Creditors);

- (iii) no Default has occurred; and
- (iv) the Pari Passu Discharge Date has not occurred,

unless it has received written notice to the contrary. A Pari Passu Note Trustee is not obliged to monitor or enquire whether any such default has occurred.

19.8 No action

A Pari Passu Note Trustee shall not have any obligation to take any action under this Agreement unless it is indemnified or secured to its satisfaction (whether by way of payment in advance or otherwise) by the Debtors or the Pari Passu Noteholders for which it is the Creditor Representative, as applicable, in accordance with the terms of the relevant Pari Passu Note Indenture. A Pari Passu Note Trustee is not required to indemnify any other person, whether or not a Party in respect of the transactions contemplated by this Agreement.

19.9 Departmentalisation

In acting as a Pari Passu Note Trustee, a Pari Passu Note Trustee shall be treated as acting through its corporate trust department which shall be treated as a separate entity from its other divisions and departments. Any information received or acquired by a Pari Passu Note Trustee which is received or acquired by some other division or department or otherwise than in its capacity as Pari Passu Note Trustee may be treated as confidential by that Pari Passu Note Trustee and will not be treated as information possessed by that Pari Passu Note Trustee in its capacity as such.

19.10 Other parties not affected

This Clause 19 is intended to afford protection to each Pari Passu Note Trustee only and no provision of this Clause 19 shall alter or change the rights and obligations as between the other parties in respect of each other.

19.11 Security Agent and the Pari Passu Note Trustees

- (a) A Pari Passu Note Trustee is not responsible for the appointment or for monitoring the performance of the Security Agent.
- (b) A Pari Passu Note Trustee shall be under no obligation to instruct or direct the Security Agent to take any Security enforcement action unless it shall have been instructed to do so by the Pari Passu Noteholders for which it is the Creditor Representative and indemnified and/or secured to its satisfaction.
- (c) The Security Agent acknowledges and agrees that it has no claims for any fees, costs or expenses from, or indemnification against, a Pari Passu Note Trustee.

19.12 Provision of information

A Pari Passu Note Trustee is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party. A Pari Passu Note Trustee is not responsible for:

- (a) providing any Creditor with any credit or other information concerning the risks arising under or in connection with the Transaction Security Documents or Pari Passu Debt Note Documents (including any information relating to the financial condition or affairs of any Debtor or their related entities or the nature or extent of recourse against any party or its assets) whether coming into its possession before, on or after the date of this Agreement; or

(b) obtaining any certificate or other document from any Creditor.

19.13 Disclosure of information

Each Debtor irrevocably authorises a Pari Passu Note Trustee to disclose to any other Party any information that is received by that Pari Passu Note Trustee in its capacity as Pari Passu Note Trustee.

19.14 Illegality

Notwithstanding anything else herein contained, the Pari Passu Note Trustee may refrain without liability from doing anything that would or might in its opinion be contrary to any law of any state or jurisdiction (including but not limited to the United States of America or any jurisdiction forming a part of it and England & Wales) or any directive or regulation of any agency of any such state or jurisdiction and may without liability do anything which is, in its opinion, necessary to comply with any such law, directive or regulation.

19.15 Resignation of Pari Passu Note Trustee

A Pari Passu Note Trustee may resign or be removed in accordance with the terms of the Pari Passu Note Indenture, provided that a replacement of such Pari Passu Note Trustee agrees with the Parties to become the replacement trustee under this Agreement by the execution of a Creditor/Creditor Representative Accession Undertaking.

19.16 Agents

A Pari Passu Note Trustee may act through its attorneys and agents and shall not be responsible for the misconduct or negligence of any attorney or agent appointed with reasonable care by it hereunder.

19.17 No Requirement for Bond or Security

A Pari Passu Note Trustee shall not be required to give any bond or surety with respect to the performance of its duties or the exercise of its powers under this Agreement.

19.18 Provisions Survive Termination

The provisions of this Clause 19 shall survive any termination or discharge of this Agreement and the resignation or termination of the appointment of a Pari Passu Note Trustee.

19.19 Pari Passu Note Trustee Creditor Representative Amounts and Payments

No provision of this Agreement shall alter or otherwise affect (i) the rights and obligations of any Debtor to make payments in respect of the Creditor Representative Amounts owed to a Pari Passu Note Trustee as and when the same are due and payable pursuant to the applicable Pari Passu Debt Documents, (ii) the receipt and retention by any Pari Passu Note Trustee of the same or (iii) the taking of any step or action by any Pari Passu Note Trustee in respect of its rights under the applicable Pari Passu Debt Documents to the same.

19.20 Business with Debtors

A Pari Passu Note Trustee may accept deposits from, lend money to, and generally engage in any kind of banking or other business with any of the Debtors.

20. CHANGES TO THE PARTIES

20.1 Assignments and transfers

No Party (other than the Security Agent in accordance with Clause 18.13 (Resignation of the Security Agent) may:

- (a) assign any of its rights; or
- (b) transfer any of its rights and obligations,

in respect of any Debt Documents or the Liabilities except as permitted by this Clause 20.

20.2 Change of Credit Facility Lender or Pari Passu Lender under an existing Credit Facility or Pari Passu Facility

(a) A Credit Facility Lender or a Pari Passu Lender under an existing Credit Facility or Pari Passu Facility may:

- (i) assign any of its rights; or
- (ii) transfer by novation any of its rights and obligations,

in respect of any Debt Documents or the Liabilities if:

- (A) that assignment or transfer is in accordance with the terms of the Credit Facility Agreement or Pari Passu Facility Agreement to which it is a party; and
- (B) any assignee or transferee has (if not already a Party as a Credit Facility Lender or Pari Passu Lender) acceded to this Agreement, as a Credit Facility Lender or Pari Passu Lender, pursuant to Clause 20.9 (Creditor/Creditor Representative Accession Undertaking).

20.3 Change of Pari Passu Noteholder

Any Pari Passu Noteholder may assign, transfer or novate any of its rights and obligations to any person without the need for such person to execute and deliver to the Security Agent a Creditor/Creditor Representative Accession Undertaking.

20.4 Change of Creditor Representative

No person shall become a Creditor Representative unless at the same time, it accedes to this Agreement as a Creditor Representative pursuant to Clause 20.9 (Creditor/Creditor Representative Accession Undertaking).

20.5 Change of Intra-Group Lender

Subject to Clause 6.4 (Acquisition of Intra-Group Liabilities) and to the terms of the other Debt Documents, any Intra-Group Lender may:

- (a) assign any of its rights; or
- (b) transfer any of its rights and obligations,

in respect of the Intra-Group Liabilities to another member of the Group if that member of the Group has (if not already a Party as an Intra-Group Lender) acceded to this Agreement as an Intra-Group Lender, pursuant to Clause 20.9 (Creditor/Creditor Representative Accession Undertaking).

20.6 New Intra-Group Lender

If any Intra-Group Lender or any Subsidiary of the Parent makes any loan to or grants any credit to or makes any other financial arrangement having similar effect with any Debtor, in an aggregate amount of (US)\$5,000,000 or more, the Parent will procure that the person giving that loan, granting that credit or making that other financial arrangement (if not already a Party as an Intra-Group Lender) accedes to this Agreement as an Intra-Group Lender, pursuant to Clause 20.9 (Creditor/Creditor Representative Accession Undertaking).

20.7 Accession of Credit Facility Creditors under new Credit Facilities

At any time on or following the Term Lender Discharge Date, in order for any credit facility (other than the Initial Term Facility) to be a "Credit Facility" for the purposes of this Agreement:

- (a) the Parent shall designate that credit facility as a Credit Facility and certify in writing to the Security Agent and the Primary Creditors that the establishment of that credit facility as a Credit Facility under this Agreement will not breach the terms of any of this Agreement, its existing Credit Facility Documents or Pari Passu Debt Documents;
- (b) each creditor in respect of that credit facility shall accede to this Agreement as a Credit Facility Lender;
- (c) each arranger in respect of that credit facility shall accede to this Agreement as a Credit Facility Arranger;
- (d) the facility agent in respect of that credit facility shall accede to this Agreement as the Creditor Representative in relation to that credit facility pursuant to Clause 20.9 (Creditor/Creditor Representative Accession Undertaking); and
- (e) any additional remuneration for the Security Agent in connection with the accession shall have been determined pursuant to Clause 18.17 (Security Agent's management time and additional remuneration).

20.8 Accession of Pari Passu Debt Creditors under new Pari Passu Notes or Pari Passu Facilities

- (a) In order for indebtedness in respect of any issuance of debt securities to constitute "**Pari Passu Debt Liabilities**" for the purposes of this Agreement:
 - (i) the issuance of debt securities shall be a further issue of Senior Secured Notes under the existing Senior Secured Notes Indenture;
 - (ii) the Parent shall designate that issuance of debt securities as Pari Passu Notes and confirm in writing to the Security Agent and the Primary Creditors that the incurrence of those debt securities as Pari Passu Debt Liabilities under this Agreement will not breach the terms of this Agreement, its existing Credit Facility Documents or the Pari Passu Debt Documents;
 - (iii) the trustee in respect of those debt securities shall accede to this Agreement as the Creditor Representative in relation to those Pari Passu Debt Liabilities pursuant to Clause 20.9 (Creditor/Creditor Representative Accession Undertaking); and

- (iv) any additional remuneration for the Security Agent in connection with the accession shall have been determined pursuant to Clause 18.17 (Security Agent's management time and additional remuneration).
- (b) In order for indebtedness under any credit facility to constitute "**Pari Passu Debt Liabilities**" for the purposes of this Agreement:
 - (i) the Parent shall designate that credit facility as a Pari Passu Facility and confirm in writing to the Primary Creditors that the establishment of that Pari Passu Facility as Pari Passu Debt Liabilities under this Agreement will not breach the terms of any of its existing Credit Facility Documents or Pari Passu Debt Documents;
 - (ii) each creditor in respect of that credit facility shall accede to this Agreement as a Pari Passu Debt Creditor;
 - (iii) each arranger in respect of that credit facility shall accede to this Agreement as a Pari Passu Arranger;
 - (iv) the facility agent in respect of that credit facility shall accede to this Agreement as the Creditor Representative in relation to that credit facility pursuant to Clause 20.9 (Creditor/Creditor Representative Accession Undertaking); and
 - (v) any additional remuneration for the Security Agent in connection with the accession shall have been determined pursuant to Clause 18.17 (Security Agent's management time and additional remuneration).

20.9 Creditor/Creditor Representative Accession Undertaking

With effect from the date of acceptance by the Security Agent of a Creditor/Creditor Representative Accession Undertaking duly executed and delivered to the Security Agent by the relevant acceding party or, if later, the date specified in that Creditor/Creditor Representative Accession Undertaking:

- (a) any Party ceasing entirely to be a Creditor shall be discharged from further obligations towards the Security Agent and other Parties under this Agreement (other than such obligations that are expressed to survive that discharge) and their respective rights against one another shall be cancelled (except in each case for those rights which arose prior to that date); and
- (b) as from that date, the replacement or new Creditor shall assume the same obligations and become entitled to the same rights, as if it had been an original Party in the capacity specified in the Creditor/Creditor Representative Accession Undertaking.

20.10 New Debtor

- (a) If any member of the Group:

- (i) incurs any Liabilities; or
- (ii) gives any Security, guarantee, indemnity or other assurance against loss in respect of any of the Liabilities,

the Debtors will procure that the person incurring those Liabilities or giving that assurance accedes to this Agreement as a Debtor, in accordance with paragraph (b) below, no later than contemporaneously with the incurrance of those Liabilities or the giving of that assurance.

- (b) With effect from the date of acceptance by the Security Agent of a Debtor Accession Deed duly executed and delivered to the Security Agent by the new Debtor or, if later, the date specified in the Debtor Accession Deed, the new Debtor shall assume the same obligations and become entitled to the same rights as if it had been an original Party as a Debtor.

20.11 Additional parties

Each of the Parties appoints the Security Agent to receive on its behalf each Debtor Accession Deed and Creditor/Creditor Representative Accession Undertaking delivered to the Security Agent and the Security Agent shall, as soon as reasonably practicable after receipt by it, sign and accept the same if it appears on its face to have been completed, executed and, where applicable, delivered in the form contemplated by this Agreement or, where applicable, by the relevant Debt Document.

20.12 Resignation of a Debtor

- (a) The Parent may request that a Debtor ceases to be a Debtor by delivering to the Security Agent a Debtor Resignation Request.
- (b) The Security Agent shall accept a Debtor Resignation Request and notify the Parent and each other Creditor Representative of its acceptance if:
 - (i) the Parent has certified that (A) no Default is continuing or would result from the acceptance of the Debtor Resignation Request, and (B) such Debtor is under no actual or contingent obligations in respect of the Intra-Group Liabilities;
 - (ii) to the extent that the Credit Facility Lender Discharge Date has not occurred, each relevant Creditor Representative confirms to the Security Agent that that Debtor is not, or has ceased to be, a Credit Facility Borrower or a Credit Facility Guarantor; and
 - (iii) to the extent that the Pari Passu Debt Discharge Date has not occurred, each Pari Passu Note Trustee confirms to the Security Agent that the Debtor is not, or has ceased to be, an issuer or guarantor of the Pari Passu Debt Liabilities for which it is the Creditor Representative; and
- (c) Upon notification by the Security Agent to the Parent of its acceptance of the resignation of a Debtor, that member of the Group shall cease to be a Debtor and shall have no further rights or obligations under this Agreement as a Debtor.

21. COSTS AND EXPENSES

21.1 Transaction expenses

The Parent shall, promptly on demand, pay the Security Agent the amount of all costs and expenses (including legal fees) (together with any applicable VAT) properly incurred by the Security Agent and by any Receiver or Delegate in connection with the negotiation, preparation, printing, execution, performance and perfection of:

- (a) this Agreement and any other documents referred to in this Agreement and the Transaction Security; and
- (b) any other Debt Documents executed after the date of this Agreement,

but for the avoidance of doubt excluding any fees which are expressly stated to be included within its fee payable pursuant to the terms of the fee letter between the Parent and the Security Agent.

21.2 Amendment costs

If a Debtor requests an amendment, waiver or consent, the Parent shall, within three Business Days of demand, reimburse the Security Agent for the amount of all costs and expenses (including legal fees) (together with any applicable VAT) properly incurred by the Security Agent (and by any Receiver or Delegate) in responding to, evaluating, negotiating or complying with that request or requirement.

21.3 Enforcement and preservation costs

The Parent shall, within five (5) Business Days of demand, pay to the Security Agent the amount of all costs and expenses (including legal fees and together with any applicable VAT) incurred by it in connection with the enforcement of or the preservation of any rights under any Debt Document and the Transaction Security and any proceedings instituted by or against the Security Agent as a consequence of taking or holding the Transaction Security or enforcing these rights.

21.4 Stamp taxes

The Parent shall pay and, within five (5) Business Days of demand, indemnify the Security Agent against any cost, loss or liability the Security Agent incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Debt Document.

21.5 Interest on demand

If any Creditor or Debtor fails to pay any amount payable by it under this Agreement or the Transaction Security Documents on its due date, interest shall accrue on the overdue amount (and be compounded with it) from the due date up to the date of actual payment (both before and after judgment and to the extent interest at a default rate is not otherwise being paid on that sum) at the rate which is 2% per annum over the rate at which the Security Agent was being offered, by leading banks in the London interbank market, deposits in an amount comparable to the unpaid amounts in the currencies of those amounts for any period(s) that the Security Agent may from time to time select *provided that* if any such rate is below zero, that rate will be deemed to be zero.

21.6 Fee letter

The Parent shall pay to the Security Agent from time to time such compensation for its services as is set forth in a separate fee letter between the Parent and the Security Agent.

22. OTHER INDEMNITIES

22.1 Indemnity to the Security Agent

(a) Each Debtor jointly and severally shall promptly indemnify the Security Agent and every Receiver and Delegate and their respective officers, directors, employees and agents against any cost, penalty, suit, cause of action, loss, fees, expenses (including any legal fees) or liability, including any environmental liability (together with any applicable VAT) of whatever kind or nature regardless of their merit, demanded, asserted or claimed against any of them directly or indirectly relating to or arising out of or in connection with:

- (i) any failure by the Parent to comply with its obligations under Clause 21 (Costs and Expenses);
- (ii) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;

- (iii) the taking, holding, protection or enforcement of the Transaction Security;
- (iv) the exercise of any of the rights, powers, discretions, authorities and remedies vested in the Security Agent, each Receiver and each Delegate by the Debt Documents or by law;
- (v) any default by any Debtor in the performance of any of the obligations expressed to be assumed by it in the Debt Documents;
- (vi) instructing lawyers, accountants, tax advisers, surveyors, a Financial Adviser or other professional advisers or experts as permitted under this Agreement; or
- (vii) acting as Security Agent, Receiver or Delegate under the Debt Documents or which otherwise relates to any of the Security Property (otherwise, in each case, than by reason of the relevant Security Agent's, Receiver's or Delegate's gross negligence or wilful misconduct).

(b) Each Debtor must indemnify and hold the Security Agent harmless on a full indemnity basis, from and against each and every loss:

- (i) arising directly or indirectly out of or in any way connected with the ownership, possession, performance, transportation, management, sale, import to or export from any jurisdiction, control, use or operation, registration, navigation, certification, classification, management, manning, provisioning, the provision of bunkers and lubricating oils, testing, design, condition, delivery, acceptance, leasing, subleasing, chartering, insurance, maintenance, repair, service, modification, refurbishment, dry docking, survey, conversion, overhaul, replacement, removal, repossession, return, redelivery, storage, sale, disposal, the complete or partial removal, decommissioning, making safe, destruction, abandonment or loss by the Debtors, or any other person of any of the Vessels or caused by any of the Vessels becoming a wreck or an obstruction to navigation, whether or not such liability may be attributable to any defect in any of the Vessels or to the design, construction or use thereof or from any maintenance, service, repair, dry docking, overhaul, inspection or for any other reason whatsoever (whether similar to any of the foregoing or not), and regardless of when the same shall arise and whether or not any of the Vessels (or any part thereof) is in possession or control of the Debtors, or the Manager or any other person and whether or not the same is in United Kingdom waters or abroad;
- (ii) arising directly or indirectly out of or in any way connected with any Release of Hazardous Material, any Environmental Claim in respect of a Vessel, or any breach of an Environmental Law or the terms and conditions of an Environmental Approval;
- (iii) as a consequence of any claim that any design, article or material in any of the Vessels or any part thereof or relating thereto or the operation or use thereof constitutes an infringement of patent, copyright, design or other proprietary right; or
- (iv) in preventing or attempting to prevent the arrest, seizure, taking in execution, requisition, impounding, forfeiture or detention of any of the Vessels or in securing or attempting to secure the release of any of the Vessels.

Any term used in this Clause 22.1(b) and not defined in this Agreement shall have the same meaning given to such term in the Initial Term Facility Agreement.

(c) Each Debtor expressly acknowledges and agrees that the continuation of its indemnity obligations under this Clause 22.1 will not be prejudiced by any release or disposal under Clause 12 (Distressed Disposals) taking into account the operation of that Clause 12.

- (d) The Security Agent and every Receiver and Delegate may, in priority to any payment to the Secured Parties, indemnify itself out of the Charged Property in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this Clause 22.1 and shall have a lien on the Transaction Security and the proceeds of the enforcement of the Transaction Security for all moneys payable to it.
- (e) All amounts and indemnities to be paid under this Agreement shall be payable immediately when due in U.S. dollars (the **Dollars**) in the full amount due, without deduction for any variation in any Rate of Exchange (as defined below). The Debtors hereby jointly and severally agree to indemnify the Security Agent against any losses, damages, penalties, costs, expenses or disbursements of any kind or nature whatsoever, including, without limitation, attorney's fees and expenses, incurred by it as a result of any judgment or order being expressed and paid in a currency (the **Judgment Currency**) other than Dollars and as a result of any variation as between (i) the rate of exchange at which the dollar amount is converted into Judgment Currency for the purpose of such judgment or order, and (ii) the Rate of Exchange at which the Security Agent is then able to purchase Dollars with the amount of the Judgment Currency actually received by it. The indemnity set forth in this paragraph shall constitute a separate and independent obligation of the Debtors and shall continue in full force and effect notwithstanding any such judgment or order as aforesaid. The term **Rate of Exchange** means the rate at which the Security Agent is able to purchase Dollars with the Judgment Currency on the foreign exchange market on the relevant date and shall include any premiums and other reasonable costs of exchange payable in connection with the purchase of, or conversion into, the relevant currency.

22.2 Parent's indemnity to Primary Creditors

The Parent shall promptly and as principal obligor indemnify each Primary Creditor against any cost, loss or liability (together with any applicable VAT), whether or not reasonably foreseeable, incurred by any of them in relation to or arising out of the operation of Clause 12 (Distressed Disposals).

23. INFORMATION

23.1 Dealings with Security Agent and Creditor Representatives

Each Credit Facility Lender, Pari Passu Noteholder and Pari Passu Lender shall deal with the Security Agent exclusively through its Creditor Representative. Notwithstanding anything contained herein to the contrary, in no event shall the Security Agent have any duty or obligation to confirm whether any threshold of consents or instructions required to be provided by the Primary Creditors to its Creditor Representative under this Agreement has in fact been provided, and the Security Agent shall be entitled to conclusively rely (and shall incur no liability in acting upon such reliance) upon any instruction provided by each Creditor Representative as being given at the instruction of the applicable threshold of Primary Creditors it represents.

23.2 Disclosure between Primary Creditors and Security Agent

Notwithstanding any agreement to the contrary, each of the Debtors consents, until the Final Discharge Date, to the disclosure by any Primary Creditor and the Security Agent to each other (whether or not through a Creditor Representative or the Security Agent) of any information concerning the Debtors.

23.3 Notification of prescribed events

- (a) If an Event of Default or Default under a Credit Facility Document or Pari Passu Debt Document either occurs or ceases to be continuing the relevant Creditor Representative shall, promptly after becoming aware of that occurrence or cessation, notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each other Creditor Representative.
- (b) If a Credit Facility Acceleration Event occurs the relevant Creditor Representative for the Credit Facility shall notify the Security Agent and the Security Agent shall, promptly after receiving that notification, notify the Parent and each other Creditor Representative.
- (c) If a Pari Passu Debt Acceleration Event occurs the relevant Creditor Representative(s) shall notify the Security Agent and the Security Agent shall, promptly after receiving that notification, notify the Parent and each other Creditor Representative.
- (d) If the Security Agent enforces, or takes formal steps to enforce, any of the Transaction Security it shall notify each Creditor Representative of that action.
- (e) If any Primary Creditor exercises any right it may have to enforce, or to take formal steps to enforce, any of the Transaction Security it shall notify the Security Agent and the Security Agent shall, promptly after receiving that notification, notify each Creditor Representative of that action.
- (f) If the Security Agent receives a notice under paragraph (a) of Clause 5.1 (Option to purchase: Pari Passu Debt Creditors) it shall promptly after receiving that notice, notify, and send a copy of that notice to, each Creditor Representative for the Credit Facility.

24. NOTICES

24.1 Communications in writing

Any communication to be made under or in connection with this Agreement shall be made in writing and, unless otherwise stated, may be made by fax or letter.

24.2 Security Agent's communications with Primary Creditors

The Security Agent shall be entitled to carry out all dealings with the Credit Facility Lenders, Pari Passu Noteholders and Pari Passu Lenders through their respective Creditor Representatives and may give to the Creditor Representatives, as applicable, any notice or other communication required to be given by the Security Agent to a Credit Facility Lender, Pari Passu Noteholder or Pari Passu Lender.

24.3 Addresses

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Agreement is:

- (a) in the case of the Parent, that identified with its name below;
- (b) in the case of the Security Agent, that identified with its name below;
- (c) in the case of each Creditor Representative, that identified with its name below; and
- (d) in the case of each other Party, that notified in writing to the Security Agent on or prior to the date on which it becomes a Party,

or any substitute address, fax number or department or officer which that Party may notify to the Security Agent (or the Security Agent may notify to the other Parties, if a change is made by the Security Agent) by not less than five Business Days' notice.

24.4 Delivery

- (a) Any communication or document made or delivered by one person to another under or in connection with this Agreement will only be effective:
- (i) if by way of fax, when received in legible form; or
 - (ii) subject to paragraph (b) below, if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,
- and, if a particular department or officer is specified as part of its address details provided under Clause 24.3 (Addresses), if addressed to that department or officer.
- (b) Any communication or document to be made or delivered to the Security Agent will be effective only when actually received by the Security Agent and then only if it is expressly marked for the attention of the department or officer identified with the Security Agent's signature below (or any substitute department or officer as the Security Agent shall specify for this purpose).
- (c) Any communication or document made or delivered to the Parent in accordance with this Clause 24.4 will be deemed to have been made or delivered to each of the Debtors.
- (d) Any communication or document which becomes effective, in accordance with paragraphs (a) to (c) above, after 5pm in the place of receipt shall be deemed only to become effective on the following day.
- (e) Any communication for a Debtor shall be sent to the Parent in accordance with Clause 24.3 (Addresses) and service on the Parent in accordance with the preceding paragraphs of this Clause 24.4 shall be deemed good service on the relevant Debtor.

24.5 Notification of address and fax number

Promptly upon receipt of notification of an address and fax number or change of address or fax number pursuant to Clause 24.3 (Addresses) or changing its own address or fax number, the Security Agent shall notify the other Parties.

24.6 Electronic communication

- (a) Any communication to be made between any two Parties under or in connection with this Agreement may be made by electronic mail or other electronic means to the extent that those two Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication and if those two Parties:
- (i) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and
 - (ii) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.
- (b) Any electronic communication made between those two Parties will be effective only when actually received in readable form and in the case of any electronic communication made by a Party to the Security Agent only if it is addressed in such a manner as the Security Agent shall specify for this purpose.

- (c) Any electronic communication which becomes effective, in accordance with paragraph (b) above, after 5pm in the place of receipt shall be deemed only to become effective on the following day.

24.7 English language

- (a) Any notice given under or in connection with this Agreement must be in English.
- (b) All other documents provided under or in connection with this Agreement must be:
 - (i) in English; or
 - (ii) if not in English, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

25. PRESERVATION

25.1 Partial invalidity

If, at any time, any provision of a Debt Document is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of that provision under the law of any other jurisdiction will in any way be affected or impaired.

25.2 No impairment

If, at any time after its date, any provision of a Debt Document (including this Agreement) is not binding on or enforceable in accordance with its terms against a person expressed to be a party to that Debt Document, neither the binding nature nor the enforceability of that provision or any other provision of that Debt Document will be impaired as against the other party(ies) to that Debt Document.

25.3 Remedies and waivers

No failure to exercise, nor any delay in exercising, on the part of any Party, any right or remedy under a Debt Document shall operate as a waiver of any such right or remedy or constitute an election to affirm any Debt Document. No election to affirm any Debt Document on the part of a Secured Party shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in each Debt Document are cumulative and not exclusive of any rights or remedies provided by law.

25.4 Waiver of defences

The provisions of this Agreement or any Transaction Security will not be affected by an act, omission, matter or thing which, but for this Clause 25.4, would reduce, release or prejudice the subordination and priorities expressed to be created by this Agreement including (without limitation and whether or not known to any Party):

- (a) any time, waiver or consent granted to, or composition with, any Debtor or other person;
- (b) the release of any Debtor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;

- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Debtor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Debtor or other person;
- (e) any amendment, novation, supplement, extension (whether of maturity or otherwise) or restatement (in each case, however fundamental and of whatsoever nature, and whether or not more onerous) or replacement of a Debt Document or any other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Debt Document or any other document or security;
- (g) any intermediate Payment of any of the Liabilities owing to the Primary Creditors in whole or in part; or
- (h) any insolvency or similar proceedings.

25.5 **Priorities not affected**

Except as otherwise provided in this Agreement the priorities referred to in Clause 2 (Ranking and Priority) will:

- (a) not be affected by any reduction or increase in the principal amount secured by the Transaction Security in respect of the Liabilities owing to the Primary Creditors or by any intermediate reduction or increase in, amendment or variation to any of the Debt Documents, or by any variation or satisfaction of, any of the Liabilities or any other circumstances;
- (b) apply regardless of the order in which or dates upon which this Agreement and the other Debt Documents are executed or registered or notice of them is given to any person; and
- (c) secure the Liabilities owing to the Primary Creditors in the order specified, regardless of the date upon which any of the Liabilities arise or of any fluctuations in the amount of any of the Liabilities outstanding.

26. **CONSENTS, AMENDMENTS AND OVERRIDE**

26.1 **Required consents**

- (a) Subject to paragraph (b) below, to Clause 26.4 (Exceptions), to Clause 26.5 (Disenfranchisement of Sponsor Affiliates) and to Clause 26.6 (Disenfranchisement of Defaulting Lenders):
 - (i) Clause 16.1 (Equalisation Definitions) to Clause 16.2 (Equalisation) may be amended or waived with the consent of the Creditor Representatives in respect of any Credit Facilities and the Security Agent to the extent that that amendment or waiver does not affect the Pari Passu Debt Creditors and/ or by the creditor representatives in respect of any Pari Passu Liabilities, the Pari Passu Lenders and each Pari Passu Note Trustee and the Security Agent to the extent that that amendment or waiver does not affect the Credit Facility Creditors ;
 - (ii) Schedule 4 (Enforcement Principles) may be amended or waived with the consent of the Majority Credit Facility Lenders and the Majority Pari Passu Creditors with notice to the Security Agent and without the consent of the Security Agent, Parent, any Debtor or any Intra-Group Lender to the extent that that amendment or waiver does not impose obligations on the Security Agent, the Parent, any Debtor or any Intra-Group Lender;

(iii) subject to paragraphs (i) and (ii) above, this Agreement may be amended or waived only with the consent of the Creditor Representatives, the Creditor Representative acting on behalf of the Credit Facility Lenders and the Creditor Representative acting on behalf of the Pari Passu Debt Creditors.

(b) An amendment or waiver that has the effect of changing or which relates to:

(i) Clause 9 (Redistribution), Clause 10 (Enforcement of Transaction Security), Clause 15 (Application of Proceeds) or this Clause 26 (Consents, Amendments and Override);

(ii) paragraphs (d)(iii), (e) and (g) of Clause 18.3 (Instructions); or

(iii) the order of priority or subordination under this Agreement,

shall not be made without the consent of:

(A) the Creditor Representatives;

(B) the Creditor Representative acting on behalf of the Credit Facility Lenders or in the case of an amendment to the definitions of “Enforcement Instructions”, “Instructing Group”, “Majority Credit Facility Lenders” or any provision that expressly requires the consent of the Majority Credit Facility Lenders, the Majority Credit Facility Lenders;

(C) the Creditor Representative acting on behalf of the Pari Passu Debt Creditors or in the case of an amendment to the definitions of “Enforcement Instructions”, “Instructing Group”, “Majority Pari Passu Creditors” or any provision that expressly requires the consent of the Majority Pari Passu Creditors, the Majority Pari Passu Creditors; and

(D) the Security Agent.

26.2 Amendments and Waivers: Transaction Security Documents

(a) Subject to paragraph (b) below and to Clause 26.4 (Exceptions) and unless the provisions of any Debt Document expressly provide otherwise, the Security Agent may, if authorised by the Creditor Representative acting on behalf of the Credit Facility Lenders, the Creditor Representative acting on behalf of the Pari Passu Debt Creditors and if the Parent consents, amend the terms of, waive any of the requirements of or grant consents under, any of the Transaction Security Documents which shall be binding on each Party.

(b) Subject to paragraph (c) of Clause 26.4 (Exceptions), any amendment or waiver of, or consent under, any Transaction Security Document which has the effect of changing or which relates to:

(i) the nature or scope of the Charged Property;

(ii) the manner in which the proceeds of enforcement of the Transaction Security are distributed; or

(iii) the release of any Transaction Security,

shall not be made without the prior consent of the Creditor Representative acting on behalf of the Credit Facility Lenders and the Creditor Representative acting on behalf of the Pari Passu Debt Creditors.

26.3 Effectiveness

- (a) Any amendment, waiver or consent given in accordance with this Clause 26 will be binding on all Parties and the Security Agent may effect, on behalf of any Primary Creditor, any amendment, waiver or consent permitted by this Clause 26.
- (b) Without prejudice to the generality of Clause 18.8 (Rights and discretions) in connection with the execution and delivery of any amendment, consent or waiver under this Clause 26, the Security Agent shall be entitled to receive, and shall be fully protected in relying upon, an opinion of counsel to the Parent and an officer's certificate of the Parent each stating that the execution and delivery of such amendment, consent or waiver, as applicable, is authorized or permitted by this Agreement and the Debt Documents and that all conditions precedent contained in this Agreement and the Debt Documents relating to such amendment, consent or waiver have been satisfied. The Security Agent may, but shall not be obligated to, execute any such amendment, consent or waiver that affects the Security Agent's own rights, duties, liabilities, indemnities or immunities under this Agreement, the Debt Documents or otherwise.

26.4 Exceptions

- (a) Subject to paragraphs (c) and (d) below, if the amendment, waiver or consent may impose new or additional obligations on or withdraw or reduce the rights of any Party other than:
 - (i) in the case of a Primary Creditor (other than any Creditor Representative or any Arranger), in a way which affects or would affect Primary Creditors of that Party's class generally; or
 - (ii) in the case of a Debtor, to the extent consented to by the Parent under paragraph (a) of Clause 26.2 (Amendments and Waivers: Transaction Security Documents),
the consent of that Party is required.
- (b) Subject to paragraphs (c) and (d) below, an amendment, waiver or consent which relates to the rights or obligations of a Creditor Representative, an Arranger or the Security Agent (including, without limitation, any ability of the Security Agent to act in its discretion under this Agreement) may not be effected without the consent of that Creditor Representative or, as the case may be, that Arranger or the Security Agent.
- (c) Neither paragraph (a) nor (b) above, nor paragraph (b) of Clause 26.2 (Amendments and Waivers: Transaction Security Documents) shall apply:
 - (i) to any release of Transaction Security, claim or Liabilities; or
 - (ii) to any consentwhich, in each case, the Security Agent gives in accordance with Clause 11 (Non-Distressed Disposals) or Clause 12 (Distressed Disposals).
- (d) Paragraphs (a) and (b) above shall apply to an Arranger only to the extent that Liabilities are then owed to that Arranger.
- (e) For the avoidance of doubt an accession or resignation effected in accordance with Clause 20 (Changes to the Parties) of this Agreement does not constitute an amendment or waiver of this Agreement.

26.5 Disenfranchisement of Sponsor Affiliates

- (a) For so long as a Sponsor Affiliate (i) beneficially owns a Credit Facility Participation or a Pari Passu Credit Participation or (ii) has entered into a sub-participation agreement relating to a Credit Facility Participation or Pari Passu Credit Participation or other agreement or arrangement having a substantially similar economic effect and such agreement or arrangement has not been terminated:
- (i) in ascertaining:
 - (A) the Majority Credit Facility Lenders;
 - (B) the Majority Pari Passu Creditors; or
 - (C) whether any relevant percentage (including, for the avoidance of doubt, unanimity) of Credit Facility Participation or Pari Passu Credit Participation, or the agreement of any specified group of Primary Creditors,has been obtained to approve any request for a Consent or to carry any other vote or approve any action under this Agreement, that Credit Facility Participation or Pari Passu Credit Participation shall be deemed to be zero and that Sponsor Affiliate (or the person with whom it has entered into that sub-participation, other agreement or arrangement) shall be deemed not to be a Credit Facility Lender or Pari Passu Lender.
- (b) Each Sponsor Affiliate that is a Credit Facility Lender or Pari Passu Debt Creditor agrees that:
- (i) in relation to any meeting or conference call to which all the Credit Facility Lenders, all the Pari Passu Debt Creditors or all the Primary Creditors, or any combination of those groups of Primary Creditors are invited to attend or participate, it shall not attend or participate in the same if so requested by the Security Agent or, unless the Security Agent otherwise agrees, be entitled to receive the agenda or any minutes of the same; and
 - (ii) it shall not, unless the Security Agent otherwise agrees, be entitled to receive any report or other document prepared at the behest of, or on the instructions of, the Security Agent or one or more of the Primary Creditors.

26.6 Disenfranchisement of Defaulting Lenders

- (a) For so long as a Defaulting Lender has any Available Commitment:
- (i) in ascertaining:
 - (A) the Majority Credit Facility Lenders or Majority Pari Passu Creditors; or
 - (B) whether:
 - I. any relevant percentage (including, for the avoidance of doubt, unanimity) of Credit Facility Participations or Pari Passu Credit Participations; or
 - II. the agreement of any specified group of Primary Creditors,has been obtained to approve any request for a Consent or to carry any other vote or approve any action under this Agreement,

that Defaulting Lender's Credit Facility Commitments will be reduced by the amount of its Available Commitments and, to the extent that that reduction results in that Defaulting Lender's Credit Facility Commitments being zero, that Defaulting Lender shall be deemed not to be a Credit Facility Lender or Pari Passu Debt Creditor.

(b) For the purposes of this Clause 26.6, the following Primary Creditors are Defaulting Lenders:

- (i) any Credit Facility Lender or Pari Passu Lender which has notified the Security Agent that it has become a Defaulting Lender;
- (ii) any Credit Facility Lender or Pari Passu Lender to the extent that the relevant Creditor Representative has notified the Security Agent that that Credit Facility Lender or Pari Passu Lender is a Defaulting Lender; and
- (iii) any Credit Facility Lender or Pari Passu Lender in relation to which it is aware that any of the events or circumstances referred to in paragraphs (a) or (b) of the definition of **Defaulting Lender** in the relevant Credit Facility Agreement or Pari Passu Lender has occurred,

unless the applicable Creditor Representative has received notice to the contrary from the Credit Facility Lender or Pari Passu Lender concerned (together with any supporting evidence reasonably requested by the applicable Creditor Representative) or the applicable Creditor Representative is otherwise aware that the Credit Facility Lender or Pari Passu Lender has ceased to be a Defaulting Lender.

26.7 Calculation of Credit Facility Participations and Pari Passu Credit Participations

For the purpose of ascertaining whether any relevant percentage of Credit Facility Participations or Pari Passu Credit Participations has been obtained under this Agreement, the applicable Creditor Representative may notionally convert the Credit Facility Participations and/or Pari Passu Credit Participations into their Common Currency Amounts.

26.8 Deemed consent

If, at any time prior to the Credit Facility Lender Discharge Date, the Credit Facility Lenders, the Pari Passu Note Trustees (to the extent required under the Senior Secured Note Documents) and the Pari Passu Debt Creditors (to the extent required under the Pari Passu Debt Documents) give a Consent in respect of their respective Debt Documents then, if that action was permitted by the terms of this Agreement, the Intra-Group Lenders will (or will be deemed to):

- (a) give a corresponding Consent in equivalent terms in relation to each of the Debt Documents to which they are a party; and
- (b) do anything (including executing any document) that the Primary Creditors may reasonably require to give effect to this Clause 26.8.

26.9 Excluded consents

Clause 26.8 (Deemed consent) does not apply to any Consent which has the effect of:

- (a) increasing or decreasing the Liabilities;
- (b) changing the basis upon which any Permitted Payments are calculated (including the timing, currency or amount of such Payments); or

(c) changing the terms of this Agreement or of any Security Document.

26.10 No liability

None of the Credit Facility Creditors will be liable to any other Creditor, or Debtor for any Consent given or deemed to be given under this Clause 26.

26.11 Agreement to override

- (a) Subject to paragraph (b) below, unless expressly stated otherwise in this Agreement, this Agreement overrides anything in the Debt Documents to the contrary.
- (b) Notwithstanding anything to the contrary in this Agreement, paragraph (a) above will not cure, postpone, waive or negate in any manner any default or event of default (however described) under any Debt Document as between any Creditor and any Debtor that are party to that Debt Document.

27. COUNTERPARTS

This Agreement may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

28. GOVERNING LAW

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

29. ENFORCEMENT

29.1 Jurisdiction

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or any non-contractual obligation arising out of or in connection with this Agreement) (a **Dispute**).
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) This Clause 29.1 is for the benefit of the Secured Parties only. As a result, no Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Secured Parties may take concurrent proceedings in any number of jurisdictions.

29.2 Service of process

- (a) Without prejudice to any other mode of service allowed under any relevant law:
 - (i) each Debtor (unless incorporated in England and Wales):
 - (A) irrevocably appoints Global Ship Lease Services Limited as its agent for service of process in relation to any proceedings before the English courts in connection with this Agreement and Global Ship Lease Services Limited, by its execution of this Agreement, accepts that appointment; and

(B) agrees that failure by a process agent to notify the relevant Debtor of the process will not invalidate the proceedings concerned;

(b) If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Parent (in the case of an agent for service of process for a Debtor), must immediately (and in any event within ten days of such event taking place) appoint another agent on terms acceptable to each Creditor Representative. Failing this, the relevant Creditor Representative may appoint another agent for this purpose.

(c) Global Ship Lease Services Limited expressly agrees and consents to the provisions of this Clause 29 and Clause 28 (Governing Law).

THIS AGREEMENT has been executed as a deed and is intended to be and is delivered as a deed on the date specified above.

FORM OF DEBTOR ACCESSION DEED

THIS AGREEMENT is made on [•] and made

BETWEEN:

- (1) [Insert Full Name of New Debtor] (the **Acceding Debtor**); and
- (2) [Insert Full Name of Current Security Agent] (the **Security Agent**), for itself and each of the other parties to the intercreditor agreement referred to below.

This agreement is made on [date] by the Acceding Debtor in relation to an intercreditor agreement (the **Intercreditor Agreement**) dated [•] between, amongst others, [•] as parent, [•] as company, [•] as security agent, [•] as term agent, [•] as senior secured note trustee, the other Creditors and the other Debtors (each as defined in the Intercreditor Agreement).

The Acceding Debtor intends to [incur Liabilities under the following documents]/[give a guarantee, indemnity or other assurance against loss in respect of Liabilities under the following documents]:

[Insert details (date, parties and description) of relevant documents]

the **Relevant Documents**.

IT IS AGREED as follows:

1. Terms defined in the Intercreditor Agreement shall, unless otherwise defined in this Agreement, bear the same meaning when used in this Agreement.
2. The Acceding Debtor and the Security Agent agree that the Security Agent shall hold:
 - (a) [any Security in respect of Liabilities created or expressed to be created pursuant to the Relevant Documents;
 - (b) all proceeds of that Security; and]*
 - (c) all obligations expressed to be undertaken by the Acceding Debtor to pay amounts in respect of the Liabilities to the Security Agent as trustee for the Secured Parties (in the Relevant Documents or otherwise) and secured by the Transaction Security together with all representations and warranties expressed to be given by the Acceding Debtor (in the Relevant Documents or otherwise) in favour of the Security Agent as trustee for the Secured Parties,
on trust for the Secured Parties on the terms and conditions contained in the Intercreditor Agreement.
3. The Acceding Debtor confirms that it intends to be party to the Intercreditor Agreement as a Debtor, undertakes to perform all the obligations expressed to be assumed by a Debtor under the Intercreditor Agreement and agrees that it shall be bound by all the provisions of the Intercreditor Agreement as if it had been an original party to the Intercreditor Agreement.

* Include to the extent that the Security created in the Relevant Documents is expressed to be granted to the Security Agent as trustee for the Secured Parties.

4. *[In consideration of the Acceding Debtor being accepted as an Intra-Group Lender for the purposes of the Intercreditor Agreement, the Acceding Debtor also confirms that it intends to be party to the Intercreditor Agreement as an Intra-Group Lender, and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by an Intra-Group Lender and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement].***

[4]/[5] This Agreement and any non-contractual obligations arising out of or in connection with it are is governed by, English law.

THIS AGREEMENT has been signed on behalf of the Security Agent and executed as a deed by the Acceding Debtor and is delivered on the date stated above.

The Acceding Debtor

[EXECUTED as a DEED])
By: *[Full Name of Acceding Debtor]*)

_____ Director

_____ Director/Secretary

** Include this paragraph in the relevant Debtor Accession Deed if the Acceding Debtor is also to accede as an Intra-Group Lender to the Intercreditor Agreement.

OR

[EXECUTED AS A DEED

By: *[Full name of Acceding Debtor]*

Signature of Director

Name of Director

in the presence of

Signature of witness

Name of witness

Address of witness

Occupation of witness]

Address for notices:

Address:

Fax:

The Security Agent

[Full Name of Current Security Agent]

By:

Date:

SCHEDULE 2

FORM OF CREDITOR/CREDITOR REPRESENTATIVE ACCESSION UNDERTAKING

To: *[Insert full name of current Security Agent]* for itself and each of the other parties to the Intercreditor Agreement referred to below.

From: *[Acceding Creditor]*

THIS UNDERTAKING is made on *[date]* by *[insert full name of new Credit Facility Lender/Pari Passu Debt Creditor/Creditor Representative/Arranger/Intra-Group Lender]* (the **Acceding Credit Facility Lender/Pari Passu Debt Creditor/Creditor Representative/Arranger/Intra-Group Lender**) in relation to the intercreditor agreement (the **Intercreditor Agreement**) dated *[•]* between, among others, *[INSERT NAME OF PARENT]* as parent, *[INSERT NAME OF SECURITY AGENT]* as security agent, *[INSERT NAME OF TERM AGENT]* as term agent *[INSERT NAME OF SENIOR SECURED NOTE TRUSTEE]* as senior secured note trustee, the other Creditors and the other Debtors (each as defined in the Intercreditor Agreement). Terms defined in the Intercreditor Agreement shall, unless otherwise defined in this Undertaking, bear the same meanings when used in this Undertaking.

In consideration of the Acceding *[Credit Facility Lender/Pari Passu Debt Creditor/Creditor Representative/Arranger/Intra-Group Lender]* being accepted as a *[Credit Facility Lender/Pari Passu Debt Creditor/Creditor Representative/Arranger/Intra-Group Lender]* for the purposes of the Intercreditor Agreement, the Acceding *[Credit Facility Lender/Pari Passu Debt Creditor/Creditor Representative/Arranger/Intra-Group Lender/]* confirms that, as from *[date]*, it intends to be party to the Intercreditor Agreement as a *[Credit Facility Lender/Pari Passu Debt Creditor/Creditor Representative/Arranger/Intra-Group Lender]* and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by a *[Credit Facility Lender/Pari Passu Debt Creditor/Creditor Representative/Arranger/Intra-Group Lender]* and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement.

This Undertaking and any non-contractual obligations arising out of or in connection with it are governed by English law.

THIS UNDERTAKING has been entered into on the date stated above and is executed as a deed by the Acceding Creditor, if it is acceding as an Intra-Group Lender and is delivered on the date stated above.

Acceding *[Creditor]*

[EXECUTED as a DEED]
[insert full name of Acceding Creditor]

By:

Address:

Fax:

Accepted by the Security Agent

for and on behalf of

[Insert full name of current Security Agent]

Date:

SCHEDULE 3

FORM OF DEBTOR RESIGNATION REQUEST

To: [•] as Security Agent

From: [resigning Debtor] and [Parent]

Dated:

Dear Sirs

**[Parent] – [•] Intercreditor Agreement
dated [•] (the Intercreditor Agreement)**

1. We refer to the Intercreditor Agreement. This is a Debtor Resignation Request. Terms defined in the Intercreditor Agreement have the same meaning in this Debtor Resignation Request unless given a different meaning in this Debtor Resignation Request.
2. Pursuant to Clause 20.12 (Resignation of a Debtor) of the Intercreditor Agreement we request that [resigning Debtor] be released from its obligations as a Debtor under the Intercreditor Agreement.
3. We confirm that:
 - (a) no Default is continuing or would result from the acceptance of this request; and
 - (b) [resigning Debtor] is under no actual or contingent obligations in respect of the Intra-Group Liabilities.
4. This letter and any non-contractual obligations arising out of or in connection with it are governed by English law.

[Parent]

[resigning Debtor]

By:

By:

SCHEDULE 4

ENFORCEMENT PRINCIPLES

1. In this Schedule 4:

Enforcement Objective means maximising, to the extent consistent with a prompt and expeditious realisation of value, the recovery of the Credit Facility Creditors and, without prejudice to Clause 15 (Application of Proceeds), the Pari Passu Debt Creditors.

Fairness Opinion means, in respect of any Enforcement, an opinion from a Financial Adviser that the proceeds received or recovered in connection with that Enforcement are fair from a financial point of view taking into account all relevant circumstances and that such Enforcement is consistent with the Enforcement Objective (provided that the provider of such opinion may limit its liability in respect of that opinion to the amount of its fees in respect of such engagement).

Financial Adviser means any:

- (a) independent internationally recognised investment bank;
- (b) independent internationally recognised accountancy firm; or
- (c) (with regard to the sale of vessels only) independent internationally recognised shipping broker.

2. It shall be the primary and over-riding aim of any Enforcement to achieve the Enforcement Objective. Any Enforcement shall be consistent with the Enforcement Objective.

3. Without prejudice to the Enforcement Objective, the Transaction Security will be enforced and other action as to Enforcement will be taken such that either:

- (a) to the extent the Instructing Group is the Majority Credit Facility Lenders, all proceeds of Enforcement are received by the Security Agent in cash for distribution in accordance with Clause 15 (Application of Proceeds); or
- (b) to the extent the Instructing Group is the Majority Pari Passu Creditors, either:
 - (i) all proceeds of enforcement are received by the Security Agent in cash for distribution in accordance with Clause 15 (Application of Proceeds); or
 - (ii) sufficient proceeds from Enforcement will be received by the Security Agent in cash to ensure that, when the proceeds are applied in accordance with Clause 15 (Application of Proceeds), the Credit Facility Lender Discharge Date will occur (unless the Majority Credit Facility Lenders agree otherwise).

4. Enforcement action must be prompt and expeditious and reasonably expected to realise proceeds from the assets subject to Enforcement within six months of receipt by the Security Agent of Enforcement Instructions.

5. On:

- (a) a proposed Enforcement in relation to assets comprising Charged Property other than shares in a member of the Group over which Transaction Security exists, where the aggregate book value of such assets exceeds (US)\$5,000,000 (or its equivalent in any other currency or currencies); or

(b) a proposed Enforcement in relation to Charged Property comprising some or all of the shares in a member of the Group over which Transaction Security exists,

which, in either case, is not being effected through a Public Auction, the Security Agent shall, if instructed by the Majority Credit Facility Lenders or the Majority Pari Passu Creditors, appoint a Financial Adviser selected by the Term Agent or Creditor Representative for the Credit Facility Lenders and the Creditor Representative for the Pari Passu Debt Creditors (or in the event of any conflict selected by an investment bank (acting as an expert and not as an arbitrator) nominated (on the application of the Security Agent) by the President for the time being of the Law Society of England and Wales (the costs of the nomination and of the investment bank being payable by the Parent) and the determination of any investment bank shall be final and binding upon the Parties and which may be a Credit Facility Lender or a relationship bank of a Debtor) to provide a Fairness Opinion in relation to that Enforcement, *provided that* the Security Agent shall not be required to appoint a Financial Adviser nor obtain a Fairness Opinion if a proposed Enforcement:

(i) would result in the receipt of sufficient Enforcement Proceeds in cash by the Security Agent to ensure that, after application in accordance with Clause 15 (Application of Proceeds):

(A) in the case of an Enforcement requested by the Majority Credit Facility Lenders, the Credit Facility Lender Discharge Date and the Pari Passu Debt Discharge Date would occur; or

(B) in the case of an Enforcement requested by the Majority Pari Passu Creditors, the Credit Facility Lender Discharge Date would occur,

(ii) is in accordance with any applicable law; and

(iii) complies with Clause 12 (Distressed Disposals).

6. The Security Agent shall be under no obligation to appoint a Financial Adviser or to seek the advice of a Financial Adviser unless expressly required to do so by this Schedule 4 or any other provision of this Agreement.

7. The Fairness Opinion will be conclusive evidence that the Enforcement Objective has been met.

SCHEDULE 5

ORIGINAL DEBTORS AND INTRA-GROUP LENDERS

PART 1

(INTRA-GROUP DEBTORS)

<u>Name of Intra-Group Lender</u>	<u>Jurisdiction of Incorporation</u>	<u>Registered Number</u>
Global Ship Lease, Inc.	Marshall Islands	28891
GSL Alcazar Inc.	Marshall Islands	26711
Global Ship Lease Services Limited	England	06285694
Global Ship Lease 3 Limited	Cyprus	211552
Global Ship Lease 4 Limited	Cyprus	211532
Global Ship Lease 5 Limited	Cyprus	211540
Global Ship Lease 6 Limited	Cyprus	211526
Global Ship Lease 7 Limited	Cyprus	211528
Global Ship Lease 8 Limited	Cyprus	211539
Global Ship Lease 9 Limited	Cyprus	211530
Global Ship Lease 10 Limited	Cyprus	211534
Global Ship Lease 12 Limited	Cyprus	211709
Global Ship Lease 13 Limited	Cyprus	212727
Global Ship Lease 14 Limited	Cyprus	212734
Global Ship Lease 15 Limited	Cyprus	212735
Global Ship Lease 16 Limited	Cyprus	212729
Global Ship Lease 20 Limited	Hong Kong	2146620
Global Ship Lease 21 Limited	Hong Kong	2178012
Global Ship Lease 22 Limited	Hong Kong	2222134
Global Ship Lease 23 Limited	Hong Kong	2280807

PART 2

(ORIGINAL DEBTORS)

<u>Name of Original Debtor</u>	<u>Jurisdiction of Incorporation</u>	<u>Registered Number</u>
Global Ship Lease, Inc.	Marshall Islands	28891
GSL Alcazar Inc.	Marshall Islands	26711
Global Ship Lease Services Limited	England	06285694
Global Ship Lease 3 Limited	Cyprus	211552
Global Ship Lease 4 Limited	Cyprus	211532
Global Ship Lease 5 Limited	Cyprus	211540
Global Ship Lease 6 Limited	Cyprus	211526
Global Ship Lease 7 Limited	Cyprus	211528
Global Ship Lease 8 Limited	Cyprus	211539
Global Ship Lease 9 Limited	Cyprus	211530
Global Ship Lease 10 Limited	Cyprus	211534
Global Ship Lease 12 Limited	Cyprus	211709
Global Ship Lease 13 Limited	Cyprus	212727
Global Ship Lease 14 Limited	Cyprus	212734
Global Ship Lease 15 Limited	Cyprus	212735
Global Ship Lease 16 Limited	Cyprus	212729
Global Ship Lease 20 Limited	Hong Kong	2146620
Global Ship Lease 21 Limited	Hong Kong	2178012
Global Ship Lease 22 Limited	Hong Kong	2222134
Global Ship Lease 23 Limited	Hong Kong	2280807

SCHEDULE 6

QUIET ENJOYMENT LETTER

Form A

DEED

This deed is made on [●] by and between:

1. **[Enter entity]**, a company existing and organised under the law of [●] (the “**Charterers**”);
AND
2. **[Enter entity]** a company existing and organised under the laws of [●] as security agent for certain secured parties (the “**Mortgagee**”).

WHEREAS:

- (A) [●] (the “**Owners**”) have let and the Charterers have chartered the vessel [●] (the “**Vessel**”) pursuant to a time charter dated [●] (the “**Time Charter**”);
- (B) pursuant to the Time Charter, Charterers have a right to Quiet Enjoyment in respect of the Vessel;
- (C) The Mortgagee has been granted a mortgage in respect of the Vessel by the Owners in order to secure obligations under and in connection with, amongst other matters: (i) a term credit facility agreement dated 25 October 2017 between, amongst others, Global Ship Lease, Inc., as borrower and the Mortgagee (ii) certain notes due 2022 as described in an indenture dated as of 31 October 2017 between, amongst others, Global Ship Lease, Inc., as issuer and the Mortgagee (together with any other financing contemplated thereby, the “**Finance Documents**”); and
- (D) on the terms set out herein, the Mortgagee grants Charterers a right to quiet enjoyment in respect of the Vessel.

IN CONSIDERATION OF THE ENTRY INTO TIME CHARTER AND OTHER GOOD AND VALUABLE CONSIDERATION (RECEIPT AND SUFFICIENCY OF WHICH IS ACKNOWLEDGED), THE PARTIES AGREE THE FOLLOWING:

1. The:
 - (a) Mortgagee confirms that it has consented to the Owners’ execution of the Time Charter and approved the terms of the same, including but not limited to the Charterers’ right to quiet enjoyment in respect of the Vessel.
2. The Mortgagee shall not at any time during the [Charter Period] (as defined in the Time Charter), without the Charterers’ prior written consent:
 - (a) exercise against the Vessel any rights that we may have in a manner which may prejudice or interfere with, or otherwise be inconsistent with, Charterers’ rights under the Time Charter (in particular, but without limitation, Charterers’ rights to the quiet use and enjoyment of the Vessel) in any way whatsoever; or
 - (b) take possession of the Vessel; or

- (c) exercise any power of sale or other disposal of the Vessel which the Mortgagee may be entitled to or make any application for the sale of the Vessel or any share therein in any part of the world, whether by public auction or private treaty; or
- (d) issue any arrest or similar proceedings against the Vessel in any jurisdiction other than any proceedings required to protect the Mortgagee's rights under the mortgage or other Finance Documents referred to above in respect of the Vessel where third parties have commenced proceedings against the Owners or the Vessel (and always provided that the Mortgagee shall cease such actions promptly upon the relevant proceedings or application being dismissed or permanently stayed); or
- (e) appoint a receiver in respect of the Vessel, take any step to wind up, liquidate, or place in administration or receivership, the Owners under the Time Charter nor commence or continue any analogous proceedings in any jurisdiction;

provided that no event has occurred under the Time Charter which is continuing in consequence of which the Owners thereunder are entitled to terminate the Time Charter in accordance with its terms.

- 3. The Mortgagee acknowledges that the terms of this letter shall ensue to the benefit of Charterers' successors and assigns and to the benefit of any company or person whom the Charterers may designate as sub-charterers of the Vessel.
- 4. The parties warrants that this deed is valid, legally binding, enforceable and executed by persons who, in accordance with the laws of that territory, are acting under the authority of that party.
- 5. This deed and any non contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law.
- 6. Any and all dispute arising out of or in connection with this deed shall be subject to the exclusive jurisdiction of the English High Court.
- 7. This document is executed as a deed and is delivered and takes effect at the date written at the beginning of it.

Executed and delivered as a Deed:

By: _____
Name:
Title:
For and on behalf of

By: _____
Name:
Title:
For and on behalf of

DEED

This deed is made on [●] by and between:

3. [Enter entity], a company existing and organised under the law of [●] (the “Charterers”);
AND
4. [Enter entity] a company existing and organised under the laws of [●] as security agent for certain secured parties (the “Mortgagee”).

WHEREAS:

- (E) [●] (the “Owners”) have let and the Charterers have chartered the vessel [●] (the “Vessel”) pursuant to a time charter dated [●] (the “Time Charter”);
- (F) pursuant to the Time Charter, Charterers have a right to Quiet Enjoyment in respect of the Vessel;
- (G) The Mortgagee has been granted a mortgage in respect of the Vessel by the Owners in order to secure obligations under and in connection with, amongst other matters: (i) a term credit facility agreement dated 25 October 2017 between, amongst others, Global Ship Lease, Inc., as borrower and the Mortgagee (ii) certain notes due 2022 as described in an indenture dated as of 31 October 2017 between, amongst others, Global Ship Lease, Inc., as issuer and the Mortgagee (together with any other financing contemplated thereby, the “Finance Documents”); and
- (H) on the terms set out herein, the Mortgagee grants Charterers a right to quiet enjoyment in respect of the Vessel.

IN CONSIDERATION OF THE ENTRY INTO TIME CHARTER, THE CHARTERERS CONSENTING TO THE ASSIGNMENT OF THE TIME CHARTER TO THE MORTGAGEE AND OTHER GOOD AND VALUABLE CONSIDERATION (RECEIPT AND SUFFICIENCY OF WHICH IS ACKNOWLEDGED), THE PARTIES AGREE THE FOLLOWING:

8. The:
 - (a) Mortgagee confirms that it has consented to the Owners’ execution of the Time Charter and approved the terms of the same, including but not limited to the Charterers’ right to quiet enjoyment in respect of the Vessel on the terms set out herein; and
 - (b) Charterers confirm that they have consented to the assignment by the Owners of all their rights, title and interest under the Time Charter to the Mortgagee.
9. The Mortgagee shall not at any time during the [Charter Period] (as defined in the Time Charter), without the Charterers’ prior written consent:

- (a) exercise against the Vessel any rights that we may have in a manner which may prejudice or interfere with Charterers' rights under the Time Charter (in particular, but without limitation, Charterers' rights to the quiet use and enjoyment of the Vessel) in any way whatsoever; or
- (b) take possession of the Vessel; or
- (c) exercise any power of sale or other disposal of the Vessel which the Mortgagee may be entitled to or make any application for the sale of the Vessel or any share therein in any part of the world, whether by public auction or private treaty; or
- (d) issue any arrest or similar proceedings against the Vessel in any jurisdiction other than any proceedings required to protect the Mortgagee's rights under the mortgage or other Finance Documents referred to above in respect of the Vessel where third parties have commenced proceedings against the Owners or the Vessel (and always provided that the Mortgagee shall cease such actions promptly upon the relevant proceedings or application being dismissed or permanently stayed); or
- (e) appoint a receiver in respect of the Vessel, take any step to wind up, liquidate, or place in administration or receivership, the Owners under the Time Charter nor commence or continue any analogous proceedings in any jurisdiction;

provided that the undertakings in this paragraph 2 shall not apply if (i) there has occurred and is continuing a material default by the Charterers of its obligations under the Time Charter or (ii) the Vessel has become an actual, agreed, or constructive total loss in which event the provisions of the Time Charter shall prevail as between Charterer and Owner.

10. The Charterers agree and accept that the undertakings contained in paragraph 2 above shall, at all times, be subject to the Step-in Rights (as such rights are conditioned and limited by the terms of this Deed) provided that the Time Charter as it may be amended and/or novated following exercise of the Step-in Rights, shall remain in full force and effect. For these purposes:

Eligible Person means a person having the technical capability, financial resources, and legal capacity to become a party to the Charter and to perform Owner's obligations which is acceptable to the Charterers (acting reasonably).

Step-in Rights means any and all of the rights or powers of the Mortgagee under the mortgage or the other Finance Documents to:

- (a) effect a change of ownership or sale of the Vessel whether by the arrest or the detention of the Vessel, taking actual or constructive possession of the Vessel or otherwise; or
- (b) effect a change of management of the Vessel.

11. The Mortgagee acknowledges and agrees that any transfer of ownership or management of the Vessel pursuant to the exercise by us of the Step-in Rights shall only be to an Eligible Person and is conditional upon the transferee first agreeing to acknowledge and be bound by the terms of the Time Charter.

12. It is a condition precedent to the exercise by us of any Step-in Right that:

- (a) an event entitling us to enforce the security constituted by the mortgage over the Vessel (such event, an "**Owner Finance Default**") has occurred and is continuing;

- (b) the Mortgagee has notified the Charterers of such Owner Finance Default in writing; and
- (c) such Owner Finance Default has not been cured within any applicable remedy period.

- 13. Upon the Step-in Rights becoming exercisable by the Mortgagee, we shall provide thirty (30) days' written notice to you of our intention to exercise such rights. Such notice shall contain reasonable detail of the action the Mortgagee proposes to take, including the identity of the Eligible Person to whom the ownership and/or management of the Vessel is to be transferred together with a certificate issued by the party exercising the Step-in Rights confirming that the Time Charter remains in full force and effect and is binding on that party.
- 14. Subject to, where applicable, the relevant event(s) entitling the Charterers to terminate the Time Charter having been cured to the Charterers' satisfaction, the Charterers agree to enter into such novation agreement as may be necessary to effect the novation of Owner's rights and obligations under the Charter to the Eligible Person.
- 15. The Mortgagee acknowledges that the terms of this letter shall ensue to the benefit of Charterers' successors and assigns and to the benefit of any company or person whom the Charterers may designate as sub-charterers of the Vessel.
- 16. The parties warrants that this deed is valid, legally binding, enforceable and executed by persons who, in accordance with the laws of that territory, are acting under the authority of that party.
- 17. This deed and any non contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law.
- 18. Any and all dispute arising out of or in connection with this deed shall be subject to the exclusive jurisdiction of the English High Court.
- 19. This document is executed as a deed and is delivered and takes effect at the date written at the beginning of it.

Executed and delivered as a Deed:

By: _____
Name:
Title:
For and on behalf of

By: _____
Name:
Title:
For and on behalf of

SIGNATORIES

Original Debtors and Intra-Group Lenders

The Parent

EXECUTED as a DEED by)
GLOBAL SHIP LEASE, INC.)
acting by)
)

/s/ Susan Cook
Name: Susan Cook
Title _____

/s/ Thomas Lister
Name: Thomas Lister
Title _____

Address: Global Ship Lease, Inc.,
c/o Global Ship Lease Services Limited
Portland House
Stag Place
London
SW1E 5RS

Fax number: +44 (0) 20 7869 8119

Email: notices@globalshiplease.com

Attention: CFO, CEO and CAO

Other Original Debtors and Intra-Group Lenders

EXECUTED as a **DEED** by)
GLOBAL SHIP LEASE SERVICES)
LIMITED)
acting by)
)

/s/ Susan Cook _____
Name: Susan Cook
Title _____

Witness's signature /s/ Josh Davis _____

Name: Josh Davis

Address: Allen & Overy LLP
One Bishops Square
London E1 6AD
www.allenoverly.com

EXECUTED as a **DEED** by
GLOBAL SHIP LEASE 3 LIMITED
acting by

)
)
)
)

/s/ Susan Cook _____
Name: Susan Cook
Title _____

/s/ Thomas Lister _____
Name: Thomas Lister
Title _____

EXECUTED as a **DEED** by
GLOBAL SHIP LEASE 4 LIMITED
acting by

)
)
)
)

/s/ Susan Cook _____
Name: Susan Cook
Title _____

/s/ Thomas Lister _____
Name: Thomas Lister
Title _____

EXECUTED as a **DEED** by
GLOBAL SHIP LEASE 5 LIMITED
acting by

)
)
)
)

/s/ Susan Cook
Name: Susan Cook
Title _____

/s/ Thomas Lister
Name: Thomas Lister
Title _____

EXECUTED as a **DEED** by
GLOBAL SHIP LEASE 6 LIMITED
acting by

)
)
)
)

/s/ Susan Cook
Name: Susan Cook
Title _____

/s/ Thomas Lister
Name: Thomas Lister
Title _____

EXECUTED as a **DEED** by
GLOBAL SHIP LEASE 7 LIMITED
acting by

)
)
)
)

/s/ Susan Cook
Name: Susan Cook
Title _____

/s/ Thomas Lister
Name: Thomas Lister
Title _____

EXECUTED as a **DEED** by
GLOBAL SHIP LEASE 8 LIMITED
acting by

)
)
)
)

/s/ Susan Cook _____
Name: Susan Cook
Title _____

/s/ Thomas Lister _____
Name: Thomas Lister
Title _____

EXECUTED as a **DEED** by
GLOBAL SHIP LEASE 9 LIMITED
acting by

)
)
)
)

/s/ Susan Cook

Name: Susan Cook
Title _____

/s/ Thomas Lister

Name: Thomas Lister
Title _____

EXECUTED as a **DEED** by)
GLOBAL SHIP LEASE 10 LIMITED)
acting by)
)

/s/ Susan Cook _____
Name: Susan Cook
Title _____

/s/ Thomas Lister _____
Name: Thomas Lister
Title _____

EXECUTED as a **DEED** by)
GLOBAL SHIP LEASE 12 LIMITED)
acting by)
)

/s/ Susan Cook
Name: Susan Cook
Title _____

/s/ Thomas Lister
Name: Thomas Lister
Title _____

EXECUTED as a **DEED** by)
GLOBAL SHIP LEASE 13 LIMITED)
acting by)
)

/s/ Susan Cook
Name: Susan Cook
Title _____

/s/ Thomas Lister
Name: Thomas Lister
Title _____

EXECUTED as a **DEED** by)
GLOBAL SHIP LEASE 14 LIMITED)
acting by)
)

/s/ Susan Cook
Name: Susan Cook
Title _____

/s/ Thomas Lister
Name: Thomas Lister
Title _____

EXECUTED as a **DEED** by
GLOBAL SHIP LEASE 15 LIMITED
acting by

)
)
)
)

/s/ Susan Cook

Name: Susan Cook

Title _____

/s/ Thomas Lister

Name: Thomas Lister

Title _____

EXECUTED as a **DEED** by)
GLOBAL SHIP LEASE 16 LIMITED)
acting by)
)

/s/ Susan Cook _____
Name: Susan Cook
Title _____

/s/ Thomas Lister _____
Name: Thomas Lister
Title _____

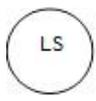
EXECUTED as a **DEED** by)
GSL ALCAZAR INC.)
acting by)
)

/s/ Thomas Lister _____
Name: Thomas Lister
Title _____

Name _____
Title _____

SIGNED , SEALED and DELIVERED)
as a deed by **GLOBAL SHIP LEASE 20 LIMITED**)
acting by its attorney Thomas Lister)
under a power of attorney dated 20 October 2017)
)

/s/ Thomas Lister
as attorney for
GLOBAL SHIP LEASE 20 LIMITED



in the presence of:

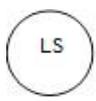
Witness's signature /s/ Josh Davis
Name: Josh Davis

Address: Allen & Overy LLP
One Bishops Square
London E1 6AD
www.allenoverly.com

SIGNED , SEALED and DELIVERED)
as a deed by **GLOBAL SHIP LEASE 21 LIMITED**)
acting by its attorney Thomas Lister)
under a power of attorney dated 20 October 2017)
)

/s/ Thomas Lister
as attorney for
GLOBAL SHIP LEASE 21 LIMITED

in the presence of:



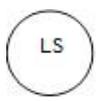
Witness's signature /s/ Josh Davis
Name: Josh Davis

Address: Allen & Overy LLP
One Bishops Square
London E1 6AD
www.allenoverly.com

SIGNED , SEALED and DELIVERED)
as a deed by **GLOBAL SHIP LEASE 22 LIMITED**)
acting by its attorney Thomas Lister)
under a power of attorney dated 20 October 2017)
)

/s/ Thomas Lister
as attorney for
GLOBAL SHIP LEASE 22 LIMITED

in the presence of:



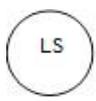
Witness's signature /s/ Josh Davis
Name: Josh Davis

Address: Allen & Overy LLP
One Bishops Square
London E1 6AD
www.allenoverly.com

SIGNED , SEALED and DELIVERED)
as a deed by **GLOBAL SHIP LEASE 23 LIMITED**)
acting by its attorney Thomas Lister)
under a power of attorney dated 20 October 2017)
)

/s/ Thomas Lister
as attorney for
GLOBAL SHIP LEASE 23 LIMITED

in the presence of:



Witness's signature /s/ Josh Davis
Name: Josh Davis

Address: Allen & Overy LLP
One Bishops Square
London E1 6AD
www.allenoverly.com

The Term Agent

**EXECUTED as a DEED by
CITIBANK EUROPE PLC, UK BRANCH**

By: /s/ Jane Styles
Name: Jane Styles

By: /s/ Raya Brody
Name: Raya Brody

Witness: /s/ John Summers
Name: John Summers

Address: Citibank Europe plc, UK Branch
5th Floor, Citigroup Centre
25 Canada Square
London
E14 5LB

Occupation: Banker

Fax: +44 2074923980

Attention: Loans Agency

Address: Citibank Europe plc, UK Branch
5th Floor, Citigroup Centre
25 Canada Square
London
E14 5LB

Fax Number: +44 (0) 20 7492 3980

Attention: European Loans Agency, EMEA

The Term Lender

**EXECUTED as a DEED by
CITIBANK, N.A., LONDON BRANCH**

By: /s/ Alessandro Boraga

Name: Alessandro Boraga

Witness: /s/ Josh Davis

Name: Josh Davis

Address: Citibank, N.A., London Branch
5th Floor, Citigroup Centre
25 Canada Square
London
E14 5LB

Occupation:

Fax: +44 (0) 20 8043 0390

Attention: Shreyas Chipalkatty

The Term Arranger

**EXECUTED as a DEED by
CITIBANK, N.A., LONDON BRANCH**

By: /s/ Alessandro Boraga

Name: Alessandro Boraga

Witness: /s/ Josh Davis

Name: Josh Davis

Address: Citibank, N.A., London Branch
5th Floor, Citigroup Centre
25 Canada Square
London
E14 5LB

Occupation:

Fax: +44 (0) 20 8043 0390

Attention: Shreyas Chipalkatty

The Senior Secured Notes Trustee

**EXECUTED as a DEED by
CITIBANK, N.A., LONDON BRANCH**

By: /s/ Stuart Sullivan

Name: Stuart Sullivan

Title: Vice President

Witness: /s/ Josh Davis

Name: Josh Davis

Address: Allen & Overy LLP
One Bishops Square
London E1 6AD
www.allenoverly.com

Occupation: Solicitor

Fax:

Attention:

Address: Citibank, N.A., London Branch
6th Floor, Citigroup Centre
25 Canada Square
London
E14 5LB

Fax Number: +44 207 500 5877

Attention: Agency & Trust - The Directors

The Security Agent

**EXECUTED as a DEED by
CITIBANK, N.A., LONDON BRANCH**

By: /s/ Stuart Sullivan

Name: Stuart Sullivan

Title: Vice President

Witness: /s/ Josh Davis

Name: Josh Davis

Address: Allen & Overy LLP
One Bishops Square
London E1 6AD
www.allenoverly.com

Occupation: Solicitor

Fax:

Attention:

Address: Citibank, N.A., London Branch
6th Floor, Citigroup Centre
25 Canada Square
London
E14 5LB

Fax Number: +44 207 500 5877

Attention: Agency & Trust - The Directors